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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE RUTH McCOLL AO  
COMMISSIONER

PUBLIC HEARING

OPERATION KEPPEL

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 6 OCTOBER, 2020

AT 10.00AM

Any person who publishes any part of this transcript in any way and to any person contrary to a Commission direction against publication commits an offence against section 112(2) of the Independent Commission Against Corruption Act 1988.

This transcript has been prepared in accordance with conventions used in the Supreme Court.

THE COMMISSIONER: Yes, Mr Robertson.

MR ROBERTSON: Commissioner, today there is a program of two witnesses. I will first call Ms Raedler Waterhouse and then call Mr Joe Alha. Today I expect to be a fairly full day of evidence. I'm hoping to get through both of those witnesses, but it's possible that I won't be able to or, alternatively, that I will ask you to sit a little bit later in the event that I am close to finish but not completely finished. There is one change to the published witness program. Tomorrow I don't intend to call Mr Reg Fisk but otherwise I intend to proceed in accordance with the program that has been uploaded to the public website.

THE COMMISSIONER: Thank you, Mr Robertson.

MR ROBERTSON: I call Louise Raedler Waterhouse.

THE COMMISSIONER: Ms Waterhouse, I understand you're incapacitated, so you may remain seated. Do you wish to take an oath?

20 MS WATERHOUSE: Yes, please.

<LOUISE SUZANNE RAEDLER WATERHOUSE, sworn [10.04am]

THE COMMISSIONER: Thank you. Mr Beazley, have you explained to Ms Waterhouse her rights and liabilities under the Independent Commission Against Corruption Act?

MR BEAZLEY: I have, Your Honour.

10 THE COMMISSIONER: Does she seek a section 38 declaration?

MR BEAZLEY: She doesn't think she needs one but, yes, I would advise to take on.

THE COMMISSIONER: Very well. Can you listen very carefully please, Ms Waterhouse, to what I am about to explain to you. As a witness you must answer all questions truthfully and produce any item described in your summons or required by me to be produced. You may object to answering a question or producing an item. The effect of any objection is that although  
20 you must still answer the question or produce the item, your answer or the item produced cannot be used against you in any civil proceedings or, subject to two exceptions, in any criminal or disciplinary proceedings.

The first exception is that this protection does not prevent your evidence from being used against you in a prosecution for an offence under the Independent Commission Against Corruption Act, including an offence of giving false or misleading evidence, for which the penalty can be imprisonment for up to five years. The second exception only applies to  
30 New South Wales public officials, and I don't understand you to fall into that category. I can make a declaration that all the answers given by you and all the items produced by you will be regarded as having been given or produced on objection. This means you don't have to object to each answer or to the production of each item. And I understand that your solicitor has advised you that I should make that declaration and I will do so.---Thank you.

Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by her during the course of her evidence at this public  
40 inquiry are to be regarded as having been given or produced on objection, and there is no need for her to make objection in respect of any particular answer given or document or thing produced.

**PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS PRODUCED BY HER DURING THE**

**COURSE OF HER EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION, AND THERE IS NO NEED FOR HER TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

THE COMMISSIONER: Yes, Mr Robertson.

10 MR ROBERTSON: Can you state your full name, please?---Louise Raedler.

You are a director of the Waterhouse Group of companies, is that right?  
---That's right.

You are also an Honorary Counsel General to the Kingdom of Tonga?  
---That's correct.

20 Before your father passed away, your father was an Honorary Consul General to the Kingdom of Tonga, is that right?---That's correct.

And after he passed away, you took over that role as consul general, is that right?---That's correct.

You are an Australian citizen?---Yes, I am.

And you're a Justice of the Peace?---That's right.

30 Do you know Mr Daryl Maguire?---I do.

How did you come to be introduced to Mr Maguire?---I was contacted by Mr Maguire's office with regards to a trip that he was planning to the Pacific and asking for assistance of organising meetings for him to take a group of Asian investors, and I became aware that he was the chairman of the Asia Pacific, New South Wales Parliament Asia Pacific Friendship Association. And so I went into Parliament House and met with him one day, it would have been in March, I think, February/March in 2017, and he told me that he was, he told me a bit about his role and how he was fostering friendship and investment for Australia and the Pacific and that he was  
40 looking for assistance about what to show his group that he was taking to the Pacific. He was going to Samoa and Fiji, et cetera, and included Tonga. And I originally thought I would be organising meetings with government departments, and I started before that to set up meetings with the Prime Minister of Tonga and with other parties, but when I met with him he said, "No, I am interested in the commercial people, so chamber of commerce and those people because these are investors. It's to introduce investors to Tonga."

When you say Asian investors, do you mean the Asia region generally or a particular country within Asia?---I, I think he would have said at the time China.

And what did you understand Mr Maguire's interest in having businessmen from China involved in investment in the South Pacific region? What was his role in relation to that matter?---I think he was trying to – well I understood, he was trying to further relations between Asia and the Pacific and Australia.

10

Did you understand that Mr Maguire had any financial interest in that matter or, as you understood it, was Mr Maguire simply performing some public duty or public role?---Simply performing some public role.

But what was that public role, noting that, as I understand what you're saying, it was about investment by Chinese business people into the South Pacific region rather than necessarily having a direct connection with Australia?---I think it was all interrelated. I think that his role was the chairman of, of the New South Wales Parliament Friendship Association for Asia and the Pacific. So I saw him as being a person who was looking to further relations.

20

THE COMMISSIONER: Had you then heard of that grouping before?---I hadn't actually, but I wasn't the consul general at that stage. So, and they actually reached out to my father and I, but my father wasn't able to meet with him so I, I did.

When did you formally become consul general?---At the end of last year or beginning of this year, actually. My father passed away in November last year.

30

So in 2017?---I was the consul, honorary consul.

I see. Thank you.---And I had been in my role in one form or another since 1995.

MR ROBERTSON: Just to be clear about your understanding of Mr Maguire's position, are you saying that, as you understood it, in his capacity as chair of the friendship group you identified, he was seeking by way of exercising that public duty to link Chinese investors up with people in the South Pacific region?---Yes.

40

And that's why he was making contact with you, because of your role within the Kingdom of Tonga, is that right?---That's exactly right.

Now just to try and get some timing around what you've just explained so far, can we go, please, to volume 16, and start on page 3? The document's going to come up on the screen in front of you in a moment.

THE COMMISSIONER: There should be some, is there some water accessible to you?---I do, thank you.

Good.

MR ROBERTSON: Do you see there an email from Ms Lions, L-i-o-n-s, electorate officer of Mr Maguire?---Yes.

10 And that's an email from Mr Maguire referring to the fact that he'll be visiting Tonga from 11 to 13 April, 2017, do you see that there?---Yes, that's exactly right.

And is that the email that you were referring to before, where Mr Maguire's office was seeking your assistance in relation to a trip to, amongst other places, Tonga?---Yes. Yes.

If we just turn back a previous page, this was an email chain, so we're going from the bottom up.---Yes.

20

If you have a look towards the very bottom of the page, do you see 31 March, 2017?---Yes.

And I take it in the "To" field those are two email addresses that you were involved in. One's a personal email address of yours, and one's associated with the Tonga Consulate in Sydney, is that right?---That's right, that's right. Yes.

In fact, I think it's in North Sydney, is that right?---That's right.

30

And if we then scan up the page a little bit, and go to the top of the page, do you see there an email from you back to Ms Lions, and copied to another one of your email addresses by the looks of it, apologising on behalf of your father, but offering to meet Mr Maguire on, as it were, his behalf and on behalf of the Consulate of Tonga?---That's true.

And we'll then go back one further page, you will there see some arrangements in terms of a meeting at Parliament House in relation to that request of Mr Maguire.---That's correct.

40

So is it consistent with your recollection that the first time that you met Mr Maguire was around April of 2017?---That's true.

Commissioner, I tender email from Ms Lions to Ms Waterhouse, 4 April, 2017, pages 1 through to 3, volume 16, public inquiry brief.

THE COMMISSIONER: That'll be Exhibit 254.

**#EXH-254 – EMAIL LIONS TO WATERHOUSE DATED 4 APRIL 2017**

MR ROBERTSON: And so you have a recollection of ultimately meeting with Mr Maguire at Parliament House in around April of 2017?---I do.

10 What was discussed during the course of that meeting?---He gave me background about the committee, which I hadn't been so familiar with, and told me also that there was a, a subgroup which was a group of investors from a part of China which I think might have been Shenzing or something along those - - -

Shenzhen, perhaps?---Perhaps that's right. And that they were looking to invest in Australia and the Pacific, and what, you know, what ideas did I have, and I said, "Well, Tonga's, has a lot of opportunities to do things, and you know, and it needs help," so basically it was in general terms.

20 So you're saying Mr Maguire explained that there was a subgroup within the New South Wales Parliament Asia Pacific Friendship Group involving investors from Shenzhen, is that what you're saying?---That's how I understood it, yes.

Well, did Mr Maguire indicate to you that it was a subgroup, or was that potentially just some other topic that Mr Maguire raised during the course of your meeting with him?---I understood it to be a subgroup.

30 But that understanding was based on what? Did Mr Maguire say that to you or did you just infer that based on the fact that that was one of the topics of conversation during the meeting in April of 2017?---Can't be sure, I, I certainly inferred it, he may have said it explicitly, I just can't quite be sure.

Can you remember the name of that subgroup?---I think it was Shenzing or something.

Does the name Shenzhen Asia Pacific Commerce Council ring any bells?  
---Oh, could be, I, yep, it was a generic type name.

40 After the meeting with Mr Maguire in April of 2017, did you have any involvement with that Shenzhen group to which you're now drawing attention?---No, I, I, my, obviously Daryl went with his group to Tonga and to the Pacific, and Daryl invited me to a, a lunch afterwards to catch up on what had happened in Tonga. And I still understood it was part of the Asia Pacific Friendship concept, but at that lunch was a chap called Mr "Ly" or Mr Li.

That's spelt L-i, I think, is that right?---L-i, yes.

Is that a Mr Ho Yuen Li?---Could be. He didn't speak English.

And so other than the meeting or the lunch to which you're just referring, have you had any other involvement with that organisation you're referring to or that group of Shenzhen businessmen?---I think there might have been two lunches at Parliament House which I went to with other consuls general, and Mr "Ly" or Li, he gave each one of us a small token gift to thank us for the help in coordinating meetings, et cetera, and then another time I met  
10 with Mr Li because he'd, evidently Daryl had organised for him to come out and inspect land that we had out west.

When you say land you had out west, is that the land sometimes referred to as the SmartWest land?---That's correct. That's quite a bit later, though.

You indicated that in the April 27 meeting you understood that the, what I'll call the Shenzhen group to be a subcommittee or a subgroup of the parliamentary friendship group. Is that right?---Yes, that's right.

20 Did that remain your understanding right up until today or did some other information come to your knowledge suggesting that it wasn't in fact a subgroup, but was rather some other group of investors, businessmen or others not necessarily associated with the parliamentary friendship group? ---I think it's a bit blurry. I still think of it as part of that umbrella, but, yeah.

Other than Mr Maguire, have you ever met anyone else who was a member of the parliamentary friendship group, any other parliamentarians who were a member of such a group?---I went to a lunch which had been organised for  
30 the group and another, a couple of parliamentarians were there actually, along with quite a number of consuls general, from Canada, from, I think from the US, from certainly other Pacific island nations, so it was quite a group of people, to talk about the Pacific and how, what help was needed in the Pacific, and as well quite a few Asian consuls general.

And was the Shenzhen group associated with that particular lunch or not?  
---No, it wasn't.

40 THE COMMISSIONER: Was that lunch organised by Mr Maguire?---Yes.

MR ROBERTSON: Have you ever attended any meetings of the Shenzhen group where any members of the parliamentary friendship group other than Mr Maguire were in attendance?---No. There was, there were the two lunches in Parliament House which were small lunches, which were thank you lunches with consuls general, and I think other parliamentarians called by to say hello, but they weren't sitting at the – oh, they might have sat at the table for a little while, but I can't quite remember.

Didn't that at least put a question in your mind as to whether the Shenzhen group had anything to do with the Parliamentary Friendship Group at all?  
---No.

In relation to the April 2017 meeting, I think you said that one of the things that was discussed was Mr Maguire's forthcoming trip to the South Pacific, including Tonga. Is that right?---Was that the date, was it, did you say?

In April 2017 it looks like.---Oh, 2017.

10

Based on the emails that I showed you a moment ago.---Yes, sorry.

THE COMMISSIONER: When you first met him.---Yes, yes, sorry. I thought you meant 17 April. Sorry, what was the question again, sir?

MR ROBERTSON: One of the things that you discussed during the course of that meeting in April of 2017, it looks like it was 5 April, 2017, was Mr Maguire's forthcoming trip to the South Pacific, including Tonga?---That was the purpose of the meeting.

20

What else, if anything, was discussed during the course of that meeting?  
---I don't know. I don't think it was at that meeting but at another time I had mentioned to him about what I was doing in Australia, but I don't think it was at that meeting.

And when you say what you were doing in Australia, what in particular do you have in mind?---I was telling him how I was excited about a project that we were working on out west with the new airport, because it was a government initiative. So, but I don't think it was at that meeting, I think it was when he returned that I might have.

30

And when you say what you were doing out west, you're referring to the SmartWest concept. Is that right?---Yes, yes.

And at least in general terms, that's a concept associated with land that's associated with your family and entities associated with it. Is that right?  
---That's correct, yes.

The land itself is towards the western side of what will become Western Sydney Airport. Is that right?---That's correct.

40

Is it possible that you discussed that matter at the first meeting that you had with Mr Maguire?---I can't be sure, but at some point I did discuss it quite early on, so whether it was at the same time in chatter of whether it was when he came back, I can't be sure.

Why were you raising that particular issue with Mr Maguire?---Just chatting away.

Anything more than that?---No.

Did you ask Mr Maguire for any assistance - - -?---No.

- - - in relation to that concept?---No, I didn't.

Not at all?---Not at all.

10 Can we go, please, to page 6 of volume 16. So just to help you get your bearings it looks like the first meeting happened on 5 April, 2017 based on the email chain I showed you a moment ago.---Ah hmm.

I'm now going to show you an email of 7 April that you appear to have sent to Ms Lions from Mr Maguire's office and to his electorate office as well. So do you see that email from you to Ms Lions and Mr Maguire's electorate office, 7 April, 2017?---Yes, I do.

20 And do you see, "Further to your mentioning the free trade zone at Shenzhen and our confidential discussions about our exciting project," et cetera. Do you see that there?---Yes, I do.

So does that refresh your memory that you're likely - - -?---It does.

- - - to have raised the SmartWest concept to Mr Maguire?---Yes, exactly. I'm sorry. Yes.

30 - - - at your first meeting on 5 April, 2017?---One of the things that I was interested in is the idea of a free trade zone and he, he must have raised the fact of the free trade zone at Shenzhen so I, I would have asked him at the time, oh, that's interesting because I'm looking also at something along those lines.

And so are you saying that this email was in the context of that particular discussion to say - - -?---Absolutely, yes.

40 - - - I'm interested in what you said about the free trade zone and, by the way, I have a concept in relation to a major landholding in Western Sydney and so you might be interested in that particular concept. Is that right?  
---You're quite right, yes.

I tender the email from Ms Waterhouse to Ms Lions and electoral office Wagga Wagga, 7 April, 2017, 4.55pm, pages 6 through to 8, volume 16 public inquiry brief.

THE COMMISSIONER: That will be Exhibit 255.

**#EXH-255 – EMAIL WATERHOUSE TO LIONS AND WAGGA  
ELECTORATE OFFICE DATED 7 APRIL 2017**

MR ROBERTSON: Now, in terms of Mr Maguire's South Pacific trip itself, I think you've explained you provided some assistance to him in terms of setting up meetings and things of that kind. Is that right?---That's correct.

10 And I think you explained that whilst you thought that he would be most interested in government officials in the first instance, it later became clear to you that he was more interested in the commercial side than the government side. Is that right?---Exactly.

Did you still provide some assistance on the government side or in the end was it only on the commercial side?---It's going back a while, but I certainly contacted the High Commission in, Australian High Commission in Tonga and also the Tonga desk in Canberra.

20 THE COMMISSIONER: Mr Robertson, can we just bring Exhibit 255 back up again, please.

MR ROBERTSON: We can. It's page 8, volume 16.

THE COMMISSIONER: Page 6, I think. It's the last exhibit, Mr Grainger. Ms Waterhouse, can you look at the last sentence, please, "I look forward to brainstorming with you as you're obviously ahead of the curve." I take it that was a comment you made about Mr Maguire in the context of the SmartWest project out at the airport?---The free trade zone, yes.

30 And what was it that he's told you or that you gleaned from your conversations with him on 5 April that led you to make that comment?---I think it was a generic comment like, you know, the people I know they're, that's what they've done or something like that or, because it was just an early idea free trade zone and I was trying to understand how it worked.

And you contemplated that being, a free zone somehow being created in relation to your land out near the Sydney Airport?---Well, in relation to the airport because with manufacturing one, one, I understand a free trade zone is that you can bring in goods, manufacture them and export them in, within  
40 a bubble so that it's a free trade zone.

This is a different sort of bubble than the one we've been talking about this year.---Absolutely. So it was, it was me just wanting to understand more.

But when you say he's obviously ahead of the curve, there must have been something he told you about his experience.---About the free trade zone.

In Shenzhen?---Yeah. I, I think so. He must have said I'm, I'm the, you know, I know all about it or, or, you know, I don't know. I can't quite remember but there was obviously something that I was, that pricked my interest because I was thinking well, he might be able to give me some advice or - - -

Thank you.

10 MR ROBERTSON: When you refer to a bubble, you mean that there may be an area in which goods can be imported and exported without having import duties or export duties simply by being in that particular location. Is that right?---Yes, that's correct.

But is that the particular thing that you thought that Mr Maguire might be ahead of the curve on or was there some other matter that made you think that he might be someone who would be good to brainstorm with?---No. At that stage it was about the free trade zone.

20 You were explaining before about the assistance that you gave in relation to Mr Maguire's trip to the South Pacific in April, including to Tonga, and I think you were starting to explain that you provide some assistance in the government area but it was more in the commercial area. Is that fair?  
---That's true.

30 And was that because, as you understood it, the purpose of the trip for Mr Maguire was principally commercial in nature, trying to set up business links between the Shenzhen businessmen and the South Pacific, rather than it being something of a more governmental nature or perhaps a charity nature?---In the beginning, I thought it was a, oh, a hybrid of both, and as I said, I contacted the government departments, and the high commissioner. But Daryl didn't pursue that avenue at all, and they were very short on time. He was conscious of meeting with the Tonga Chamber of Commerce.

THE COMMISSIONER: So it became less of a hybrid and more of a commercial trip, is that what you're saying?---I became aware that it was more commercial, yes, but in the beginning I had thought that it was, that I would be paving the way for an MP of New South Wales Parliament to meet with people in Tonga who were also government.

40 MR ROBERTSON: But the understanding that you ultimately arrived at was that at least the principal purpose of the trip was to attempt to assist Shenzhen businessmen in potential investment projects in the South Pacific region, including Tonga. Is that right?---I probably wasn't familiar with the name Shenzhen so much at that point, but yes, I was looking to assist investment in Tonga.

In relation to a group of businesspeople from at least somewhere in China, is that right?---Yes.

It might have become known to you later that the particular region of China or particular area of China was Shenzhen.---Yes, oh, I, I see in the email I think I've mentioned Shenzhen, have I?

THE COMMISSIONER: Yes.---And so, yes, I would have written that down, but I, I wasn't really, I'm not even sure where Shenzhen is in China.

10 MR ROBERTSON: Now, after the trip took place, did Mr Maguire report back to you as to what had occurred?---Yes, he, he told, he sent me an email saying he was over, they were over the moon, and that he'd done some work with trying to get a, squash cleared for export, because the number one export in Tonga is squash. And he looked forward to, you know, catching up and explaining everything or debriefing.

And that was an export of squash from Tonga to where? To Australia or to somewhere else?---Well, I understood that to be China.

20 Can we go, please, to page 10 of volume 16, if you can just have a look towards the top of the page, 17 April, 2017. So the top of it was on the screen, we'll just scroll back further down, 8.46pm. Is that the email that you were referring to before where Mr Maguire reported in after the trip? ---Yes. I don't know what the CCIC is.

If you just have a look at the first line.---Mmm.

"G'day Louise, we had a fantastic visit to all four countries, and they all joined the group." Do you see that there?---Ah hmm.

30 What was "the group" as you understood it?---I don't know. I know that Daryl wanted everybody to sign an MOU.

And that was an MOU expressing what understanding, as you recalled it? ---I don't know. I didn't see it.

Was that a MOU associated with the broader parliamentary friendship group as you understood it, or with respect to the group of Shenzhen or other Chinese businessmen?---I'm not sure.

40 If you then have a look at the second sentence, "The Chinese were over the moon and moving very quickly on some low-hanging fruit," do you see that there?---Yes.

What as you understood it was his reference to "low-hanging fruit"?---I don't know.

And if you then have a look, there's a reference to squash, which you've already referred to.---Mmm.

Then it says, “Mr Li,” L-i, “got CCIC to go to Islands and get their licences fixed for next season so that they can export to China.” Do you see that there?---Yes.

10 So what was your understanding of what Mr Li’s problem was that he needed to get fixed?---I read that to mean that – I, I thought it was export licences for Tongans, but reading there it could be – I don’t know who CCIC is, so, I don’t know whose licences it is, but – I don’t know, I can’t comment.

We’ll just scan a little bit further up the page.---Ah hmm.

So you respond 17 April, 7.35pm, “Thanks for the fulsome update and the good news, firstly that all countries joined.” All countries joined what? ---Don’t know.

20 Well, at least in context, it seems to be a reference to the thing that Mr Maguire described as “the group”.----Yeah.

Would you agree with that?---Yeah.

So do you agree that what you’re saying is that one of the things you thought was good news is that all of the four countries that he attended joined “the group”, “the group” being the group of Shenzhen businessmen? ---I’ve just picked up from his email. I don’t know, I assume it’s to do with the investors going to Tonga, but - - -

30 But you’re not just reflecting back, you’re expressing a positive view that the joining of the group was good news. You don’t email back and say, “Oh, what are you talking about, what group are you talking about,” you seem to be agreeing with Mr Maguire that it is good that all countries joined the group, so you must have had some understanding what was being referred to as “The group.”---I can’t recall. It must have been investors. I can’t, you know - - -

40 Well, are you able to identify any reason why the Commission wouldn’t infer that your reference to the countries joining is countries joining the group of Shenzhen businessmen to which you’ve drawn attention? ---Probably.

And in particular, signing up to or potentially signing up to a memorandum of understanding of the kind that you gave evidence about a little while ago.---Yes.

If we then go a little bit further up the page, Mr Maguire then emails back the next day, 18 April, 2017, 1.22pm, saying he’s thinking of doing lunch in

the next sitting week, “And I would like to catch up re the other matter we discussed.” Can you see that there?---Yes, I can.

End of the second line, into the third line. What was “the other matter” that you discussed as you understood it?---I think that would have been the free trade zone.

The free trade zone generally or the SmartWest project more specifically?  
---It would have been the free trade zone in terms of the SmartWest project.

10

And so are you saying that as at about the middle of April 2017, the only involvement or advice or potential brainstorming topic from Mr Maguire in relation to what I’ll call commercial matters rather than your role as a consul in relation to Tonga was this question of a free trade zone rather than a more general discussion or brainstorming regarding your SmartWest concept more generally or more broadly?---I know that my interest was piqued about the free trade zone but I can’t say that I wouldn’t have talked about what we were doing as a whole project.

20

And Mr Maguire has shown interest in the SmartWest concept. Correct?  
---Yeah, support, you know, because it was, you know, the, the topic of the day.

And he’s a member who might be able to provide some assistance or advice or brainstorming in relation to that concept. Is that right?---I, I, my interest was because he talked about the free trade zone so that piqued my interest.

30

But you were only interested in the free trade zone because that might be something of relevance to the SmartWest concept. Is that right?---That’s correct, yes.

And obviously enough you’ve got a member of parliament offering some assistance or some interest in your concept, you’re not going to pass up an opportunity to try and discuss it a bit further with him.---Yeah, I, yeah, I was interested.

Is that fair?---Yeah.

40

Now, there’s a reference there to doing lunch during the next sitting week. Do you recall whether such a lunch took place?---Yes, there definitely was a lunch, whether it was the next week, I know there was a bit of toing and froing about dates.

There’s a reference in Mr Maguire’s email towards the bottom of this page to Mr Li, and you referred to Mr Li before, do you recall when you first met Mr Li?---At the lunch which was to thank the consuls general for the facilitation during the trip.

So just in terms of timing, is that a lunch that happened after this email chain of 18 April, 2017 or had you met Mr Li beforehand?---No, I hadn't met him beforehand.

So the first time you met Mr Li was after 18 April, 2017. Is that right?

---Yes, that's correct.

But you at least must have known who Mr Li was before 17 April, 2017 because Mr Maguire is referring to Mr Li in his email of 17 April, 2017.

10 Would you agree?---If it's in the email I agree. I can't remember.

Well, just to be clear, let's just scan a little bit further down.---Mmm.

Now, this is Mr Maguire's email to you, around about halfway through the paragraph - - -?---Yes, I see it there.

- - - he's referring to Mr Li to go to the islands and he seems to be doing that in a context where he's expecting you to know who Mr Li actually is.---He probably would have mentioned his name.

20

And so doing the best you can, you probably knew who Mr Li was before 17 April, 2017, but you don't think you met him until after 17 April, 2017.

---No. Definitely didn't, yeah, no, that's correct.

Now, are you fairly clear in your mind that the first time you met with Mr Li was during a lunch for the consuls general - - -?---Yes.

- - - or is it possible that you met him at some earlier time?---No, I, I, no, I met him at the lunch. He couldn't speak English.

30

Do you know who Jimmy Liu is?---No. I could have mixed them up though with the names.

No, I'm now referring to another person who can speak some English.---Oh, okay.

So is it clear in your mind, then, that the first time you met Mr Li was at a lunch or function for consuls general rather than a function that may have been a more intimate one involving business people rather than consular officials?---Well, when you say lunch for consuls general, it was a lunch to thank the consuls general, it wasn't a formal – like we had the formal meeting subsequent to that in a, in a lunch room. So it was an, an informal thank you lunch to consuls general.

40

And it's during the course of that lunch that you think, as best as you can now recall, is when you met Mr Li, is that right?---Yes.

And that was within a week or two of Mr Maguire coming back from the South Pacific trip, is that right?---Probably.

Are you familiar with the firm Country Garden?---I wasn't at that stage.

When did you first become aware of a firm called Country Garden?  
---William Luong came to, to see me and he brought some brochures to show Country Garden. I had never heard of them before.

10 When did you first meet Mr Luong?---Daryl asked me to go for a dinner. I think it might have been May, but I'm not sure, at the Marigold restaurant.

In about May of 2017, is that right?---Yes, yes.

And so within a couple of weeks of the email chain that I have shown you so far, is that right?---That would be right.

And Mr Maguire is, what, introducing you to Mr Luong, is that right?  
---Yes.

20

And introducing you to Mr Luong as someone who might be able to assist in relation to the SmartWest concept, is that right?---Yes. He said he was an expert out in that area because he's been doing a lot of work out there.

And when you say that area, you mean that physical location or do you mean the general area of business?---Western Sydney, yeah, near the airport.

30 And so Mr Maguire was explaining that Mr Luong has some experience in relation to landholdings in and around what will become Western Sydney airport, is that right?---Yes, yes. And, "He will be able to give you some advice."

And that meeting occurred during the course of a dinner, is that right?  
---Yes.

And at the Marigold restaurant?---Yes.

40 I think you have met with Mr Luong on a few occasions in that particular restaurant, is that right?---I certainly remember that first meeting very clearly. I can't quite recall a second time of going there but I have had lunch with Mr Luong a couple of times.

In fact, you were in close contact with Mr Luong over a substantial period in 2017 with a view to either selling or having investments in the SmartWest site, is that right?---I don't know that I would – well, for a short period of time I was, I think, August or September, so probably a month or so that I had a number of meetings with him because it has morphed from him

offering advice and saying what he thought should happen on the property because I had, you know, a vision of doing things and whatever and his advice was, "You're better off to, you know, it would take so long, you know, I would have an investor that might be interested," et cetera. And so then he had several, a number of meetings with me to discuss this possible investor or purchaser.

10 And you ultimately engage him to attempt to assist you in selling the land, is that right?---Yes. It was his initiative but when he, you know, it was, it was his, yes, it was his initiative but we, we listened to what he had to say.

Well, your initial preference at least was to develop rather than sell, is that right?---That's correct.

But Mr Luong convinced you to at least explore the possibility of selling rather than developing, correct?---Yes.

20 And you engaged Mr Luong, or at least his company, as an agent of the vendor's to potentially sell the land to Country Garden Australia, is that right?---We didn't formally engage him. He did send me a, an agreement which we didn't sign, didn't execute, but we certainly had various meetings where he was bringing along negotiations that he had done with Country Garden.

Whether you signed the document, you at least agreed on a schedule of fees that Mr Luong's company would be entitled to be paid in the event that he could procure a sale to Country Garden, is that right?---That's correct.

30 Just so we can look at that schedule of fees, can we go please to Exhibit 291, which is volume 16, page 28. Do you recognise this document that's on the screen?---Yes, vaguely.

And that's the consultancy fee agreement that Mr Luong sent you. Correct?---Yes, that's correct.

And the idea of that agreement was that if Mr Luong procured a sale of the land – what I'll call the SmartWest land – to Country Garden, Mr Luong would be entitled to a fee. Correct?---That's correct.

40 And if can then just turn two further pages along, please. See there it says "service fee table"?---Yes.

And we'll just turn over the page because the table is split in two. Would you agree that you agreed with Mr Luong that he would be entitled to the service fees there identified in the event that Mr Luong was able to sell the land to Country Garden?---At those prices. That's correct.

At the particular prices. So for example if he was able to sell it for \$335 million he would get a fee of \$9.9 million, just as an example. If you look in the third row.---I don't think that's quite correct.

And similarly, if it was for say 325 he'd get a fee of \$6.9 million. Is that right?---Ah - - -

THE COMMISSIONER: I don't think Ms Waterhouse agreed with your previous question.

10

MR ROBERTSON: I'm so sorry.---No. I, I don't think the maths is quite correct.

THE COMMISSIONER: Your mathematical ability is being called into question, Mr Robertson.

MR ROBERTSON: That may well be right. I'll try again. See there's a range of 330 to 360, the third row on that page?---That's right.

20

And at least as I read this table, but I may have it wrong, if there was a sale for \$330 million then there would be an entitlement or fee of \$9.9 million? ---No, that's not correct. If there was a sale of - - -

Sorry, 6.9. I've got the wrong row.---Yes, 6.9.

And similarly, if it's a higher fee, then there's, as it were, a sliding scale consistent with the service fee. Is that right?---When you say a higher fee, a higher price.

30

A higher price and therefore higher fee?---Yes. So the meaning of this was that for each incremental amount, because William was talking big, he was to get a share of the incremental amount according to those figures.

THE COMMISSIONER: Incremental increase in price?---Exactly. So the 10, you know, related to the incremental amount not to the total price, which was added up in the last column cumulatively.

MR ROBERTSON: And so that was the agreed schedule of fees even though that there wasn't a formally executed document. Is that right?---Yes.

40

Back to April 2017 which is where we were before. Can we go, please, to volume 16, page 19, sorry, page 20. And so just to help you with your bearings, the email that I showed you where Mr Maguire was reporting back to you was 17 April, 2017.---Ah hmm.

I'm now going to show you an email from 27 April, 2017 where Mr Maguire says, "Can you please call me." Do you see that there on the screen?---I do.

Now, do you agree that by the time you received this email you had had a meeting with Mr Luong that Mr Maguire had set up with a view to possibly discussing what Mr Luong might be able to provide by way of assistance on the SmartWest site?---I, I don't know. My memory is that the meeting with Luong which is the first time I met him was in May but I might be wrong.

So is it possible that that meeting happened on 26 April, 2017?---It's possible, yes.

10

And then can you see there there's this email saying, "Please call me", 27 April, 2017?---Yes.

Do you have any recollection of Mr Maguire sending you an email in the late afternoon 6.33pm asking you to call him?---No, I don't really but I, I, he did send, he would send cryptic messages like that so I don't doubt it.

20

And I take it that if you did receive a cryptic message like that, you wouldn't just ignore it, you would seek to call him?---I would have called him, yes.

Particularly in circumstances where Mr Maguire is being quite helpful and potentially attempting to assist you in relation to the SmartWest concept. Do you agree?---I was pleased to be in touch with Daryl Maguire because I saw him as a person that could help the Tonga connection and he was interested in what I was doing out west.

30

He was interested in it and may be able to provide you some assistance in relation to the matter?---Yes. Well - - -

40

For example, referring you to appropriate people, perhaps assisting you in relation to meeting with government officials in Australia, matters of that kind. Do you agree?---That hadn't occurred to me at that stage. I was conscious of what his experience or what he knew about this free trade zone, and then after meeting William he was just talking in general terms about how he, he thought that we should be either looking – because I was looking for somebody that might be able to go on the journey with us and so he said that he might have some people but he didn't, he thought it would be better for us to just, to try and sell to people, but on the other side there could be – it was a generic sort of conversation that night and he certainly didn't mention anybody in particular.

But at least by this point in time Mr Maguire had made it quite clear that he was willing to assist you, and as a good businesswoman you're not going to pass up that opportunity for a member of parliament to provide some assistance. Do you agree?---I don't know I agree about good businesswoman, but I agree that I wasn't going to miss out, miss out - - -

Why wouldn't you? You've got a member of parliament who's offering some assistance, shows interest in a very major piece of land in western Sydney. Why wouldn't you at least investigate what assistance might be able to be provided. Do you agree?---Absolutely.

Do you agree that in May of 2017 you had some meetings with the Shenzhen group that you referred to towards the start of your evidence?  
---The only meetings, which were not meetings, they were a lunch, was one or two, two lunches I think, with Mr Li, or "Ly", and he couldn't speak  
10 English, he had somebody translating for him and a couple of other people there too, but we didn't, didn't discuss too much except for him saying how grateful he was and, and, you know, thank you for the help, and so it was a very sort of generic and I would have talked about Tonga and it wasn't a meeting, it was a social situation.

And in those lunches there were other consuls or consuls general present. Is that right?---Yes. Some of them came and went, so in other words some were there at the beginning and then they had to go and - - -

20 Can you remember any particular consuls or consuls general who were present at one or other of those lunches?---Yes. There was the then Consul General for Samoa, there was the, I think, Consul General for Papua and New Guinea, the former Consul for Solomon Islands.

Is that Sir Trevor Garland?---Yes. And I think there might have been one other.

Do you recall - - -?---Fiji, Fiji.

30 Do you recall whether any minutes were taken in the course of the lunch or meeting?---No. It wasn't, it wasn't a meeting per se, in what I would regard a meeting, it was a thank you lunch.

Is it consistent with your recollection that those lunches occurred in or about May of 2017?---Probably.

Other than the consuls or consuls general and Mr Maguire and Mr Li, do you recall anyone else being present at the lunch or lunches?---There were a couple of other people, I don't know who they were, apart from there was a  
40 girl there who did the translation, whom I later realised was a girl called Maggie.

Would that be Maggie Wang?---I think so.

And she was performing translation services during the meeting.---I think - - -

Or sorry, during the lunch, I'll call it that.---Lunch, yeah, yeah.

And in part that was necessary to communicate to Mr Li because Mr Li is not able to speak English. Is that right?---Yes.

Can we go, please, to page 291 of volume 18, which is Exhibit 212. I'm going to show you a document entitled Minutes of Shenzhen Asia Pacific Commerce Council happening at about lunchtime on the 3<sup>rd</sup> and 17 May, 2017. Do you see that on the screen?---Yep.

10 And if you just have a quick look at the attendees near item number 1, you'll see those attendees. I'll just get you to read them to yourself.  
---Yes.

Would you agree with me that this looks like minutes taken of the two lunches to which you referred a little bit earlier in your evidence?  
---It does indeed.

Did you know anyone was taking minutes - - -?---No.

20 - - - in relation to the lunch?---Not that I can recall.

Now, if we just turn the page, and I'll just get you to read paragraph 2 to yourself, the English version, I don't expect you to read the Chinese version.  
---Yes.

Is it consistent with your recollection that during one of the lunches Mr Li, albeit through an interpreter, provided the kind of briefing that is summarised in paragraph number 2?---I can't really recall but that's not inconsistent with what probably happened.

30 And if you have a look at paragraph number 3, if you just read that to yourself and let me know when you have.---I have no recollection exactly of that being said, but it's consistent with what I would have thought.

And if we then turn to page 294, and if you could have a look at paragraph 21 when it comes up.---May I ask what CCIC is?

China Certification and Inspection Group.---Yes.

40 Do you recall any discussion of the any discussion of the kind that's identified at paragraph 21?---I don't but I'm not saying it didn't happen.

Do you agree that, as you understood it, one of, if not the main aim of the Shenzhen group was to get countries in the South Pacific region to sign the memorandum of understanding that you were referring to a little bit earlier in your evidence?---I thought the main aim was to do investments in Tonga and the Pacific and I thought the MOU, and I, I didn't bother reading the MOU, but I thought it was just a feel-good thing so that they could have

something to go back to whomever to say, yes, they had met with these people.

And so the MOU was part and parcel of the purpose of the organisation as you understood it, which was to facilitate Shenzhen business people investing in the South Pacific region, including Tonga, is that right?---Yes.

10 And just to put some context around that, can we go to page 227 of volume 18. I'm just going to show you some emails that you sent assisting setting up the South Pacific delegation trip that Mr Maguire went on in April of 2017.---Yes.

20 Just have a look at the email from you. If you have a look at the last paragraph in particular, "Their goal was to leave Tonga with the Shenzhen Asia Pacific Commercial Development Association," and I'll pause there just to indicate for your assistance, this particular group seems to have many names, of which one is the Shenzhen Asia Pacific Commercial Development Association, "Memorandum of understanding signed and to make contacts for the next stage, which is a visit to Shenzhen." Do you see that there?---Yes. I could have just put that name in, trying to put context to it, if it's not the correct name.

30 No, to assist you, this particular group seems to have called itself a number of different names, including the very one that you have identified in your email and also separately the name that we saw on the minutes of meeting that I showed you a moment ago. And so it's consistent with your recollection that what you're assisting Mr Maguire to do is get the Shenzhen group to be able to sign memoranda of understanding with various entities in the South Pacific region as a step along the way to potential business investment from those businessmen into the South Pacific region, is that right?---Yes. I, I saw the MOU as just ticking a box. I, I was looking for the fact that they were trying to do investment in Tonga.

And by saying that their goal is to leave Tonga with that, you're not suggesting, of course, that that's the only goal?---No.

40 That's a step along the way in order to achieve an ultimate objective, that ultimate objective being investment in the South Pacific region, correct? ---Perfect.

Something, plainly enough, that you're interested in as an honorary consul, because that's of potential benefit to the people on Tonga, correct?---That's true.

Having money and having investment in the country in respect of which you are a honorary consul, correct, is that right?---That's correct, yes and, and - -

And that's, in effect, why you were assisting Mr Maguire in this area, as part of your consular duties in the interests of the Kingdom of Tonga and its people, correct?--Exactly. And in fact the, I was working with the chamber of commerce because they had asked me to set up a Tonga-Australia Chamber of Commerce which I did prior to this. And I am the honorary - -

Commissioner, I tender – I'm so sorry.---I am on that, I am the honorary president or whatever of the Australia-Tonga Chamber of Commerce.

10

Commissioner, tender an email chain that ends with an email from Ms Lions to a, it's a Mr or Ms Fonua, F-o-n-u-a, do you remember?---I'd have to see, sorry.

I think it's a Ms. I think it's a Ms Fonua, F-o-n-u-a.---Can we just go back to the document. I - - -

We can.---It might help me.

20

Page 224. Volume 18. The answer to my question, if we go to 224.---So, so what are we looking for?

If we go up a couple of pages to 224, please, operator.---So - - -

One further page. My question is answered, you'll see, by about, towards the bottom of the page. It's Ms Fonua, F-o-n-u-a.---I, I'm not on the same – oh, there we are, yes. Yes, I can, yes.

30

So I tender the email chain ending with the email from Ms Lions to Ms Fonua, F-o-n-u-a, 12 April, 2017, 8.53am, pages 224 through to 228, volume 18, public inquiry brief.

THE COMMISSIONER: Exhibit 256.

**#EXH-256 – EMAIL LIONS TO FONUA, WATERHOUSE, KIOA AND PETELO DATED 12 APRIL 2017**

40

MR ROBERTSON: Go, please, to page 26 of volume 16. Page 26, volume 16.

THE COMMISSIONER: It's not coming up, Mr Grainger. Is there a problem?

MR ROBERTSON: I just want to try and get some timings around some of the things that you've identified so far. So if you just have a look towards the bottom of the page, there's an email from you to Mr Maguire, 12 May,

2017, 6.04pm, and you're referring to a fruitful trip to Fiji and a few things of interest to discuss with the group. Do you see that there?---Yes, I do.

Is your reference to "the group" a reference to the Shenzhen group that you and I have discussed?---Yes.

And then if you look at Mr Maguire's response, a little bit further up, same day, 6.28pm. He says, "We're having lunch with Samoa and PNG on Wednesday. You're welcome to join us and have a chat to Mr Li about the opportunities in Fiji." Do you see that there?---Yep.

So you saw Mr Li as someone who, either himself or through his business contacts, may be in a position to invest in the South Pacific region and, in particular, in Tonga. Is that right?---Yes.

And you then move on to the question of Badgerys - - -?---It was based on what Daryl had told me.

Mr Maguire gives you the introduction to Mr Li. You don't know Mr Li from a bar of soap in advance of it. But at least as Mr Maguire is presenting Mr Li, he's someone who may be a possible investor in the South Pacific region, something that you're of course interested in because you're the Honorary Consul of Tonga, correct?---Exactly.

But you then go on to talk about Badgerys Creek. So it seems that we've moved away from your consul role to a matter of more private interest. Mr Maguire says, "I really would like to have William" – is that a reference to William Luong, as you understood it?---I assume so.

"Manage that and meet with you separately in your office. He has been in contact with the relevant people, who have shown a serious interest and they have plenty of funds." Do you see that there?---I do.

Now, do you have a recollection as to whether you'd met Mr Luong before you'd received this 12 May, 2017 email? Or is your best recollection that you didn't meet him until after that point in time?---No, I think we'd had dinner at the Marigold prior to this.

And so that was probably more in the nature of a social dinner, to meet people and so on and so forth, but there may have been at least some discussion about SmartWest.---I don't think I'd call it social. It was about William sharing his information or expertise, if you like, in the area.

So he was, in effect, trying to pitch to you as someone who might be able to assist you in relation to the SmartWest site, is that right?---Yes.

And so Mr Maguire is, as it were, chasing up in relation to that discussion and expressing a positive view that Mr Luong should be managing the

SmartWest issue. Is that right, as you understood it?---I don't know that it's an issue, but William was obviously keen to see if he could progress his idea of finding investors.

And when you say finding investors, that's finding investors to purchase. Is that right?---I think at this stage I was looking for somebody, a joint venture person or something along those lines. This is - - -

10 It was certainly your preference, at least at the early point, to develop the land perhaps with a joint venture partner rather than sell it. Correct?  
---Absolutely.

Part of what you were interested in was a legacy for your family - - -?  
---That's it.

- - - and keeping the land either in the family directly or in some way connected with it - - -?---Exactly.

20 - - - was certainly your preference. Is that right?---Absolutely.

But Mr Luong did ultimately convince you to at least investigate the idea of selling the land in whole to Country Garden. Is that right?---I don't know about investigate, entertain.

At least entertain that as a possibility - - -?---Yes.

- - - which would be subject to everything of course, including importantly price. Correct?---Exactly.

30 Now, having received this communication from Mr Maguire, what happened next in terms of your dealings with Mr Luong, in particular associated with the SmartWest site? So that was - - -?---Sorry, what date was this, this was May.

40 It was 12 May, 2017. So really what I'm asking is, what happens next in that process of considering selling or investing or having a joint venture partner in relation to the SmartWest site?---I can't be sure but my - I think it was some time after this but maybe it was right then, William came to see me at my office and he brought along brochures to tell me about this client of his called Country Garden.

And was there any discussion as to whether Mr Luong would be working for Country Garden or be working for you?---I understood him in the beginning to be working for Country Garden.

And was that always your understanding or did that understanding change at some point?---It changed. When he, when he was coming back and talking

about prices perhaps or whatever and he said, "Country Garden is happy to pay me but it's probably better if I'm paid by you."

And you agreed with that presumably because you want someone working for you in the hope that that person will be able to increase the price, rather than someone working for the vendor side and who would obviously have an interest in decreasing the price. Correct?---Exactly.

10 And so just take us through what happens after about mid-May in order to progress the consideration of selling the SmartWest land?---It's a while ago, but I don't think it happened very quickly. I think that, my thought is that it was probably from August that he started to come and talk seriously about the possibility of Country Garden buying. He told me that they were devastated, Country Garden, because they'd missed out on a property up the road on Elizabeth Drive and they were really keen and he said, "If it wasn't for missing out on the property they wouldn't be so keen but they're very keen because they'd missed out on that property."

20 So it was clear, at least in what was communicated to you by Mr Luong, that Country Garden Australia were interested in a substantial landholding close to the airport. Is that right?---Absolutely.

And the particular context was that it had attempted to buy a different landholding near the airport but was unsuccessful in relation to that. Is that right?---Yes.

30 And is it consistent with your recollection that although there was at least some discussions with Mr Luong, by the looks of it around the middle of May, perhaps as early as late April, it didn't really get a head of steam amongst it until a bit later in the year, I think you suggested around August or something like that?---Yes.

40 And so once we get to August, what happened then in terms of exploring the potential sale to Country Garden?---William came to me and he said, "They're very interested. I've talked them into the idea. They've not done industrial projects before, or they've been mainly residential, but they're, they're now happy to do industrial." And at one of those meetings he said that the head of Country Garden, Mr Yang I think, Yang, that he had met with one of the ministers here and told the minister that he wanted to do industrial property at the airport.

And so you met with that particular individual?---No.

Did you meet with anyone else from Country Garden, can you remember?  
---Yes. There was a site visit with one of the project development managers who was actually leaving the next week. Do you want his name?

Yes.---Martin.

THE COMMISSIONER: Sorry, what was his name?---Martin.

Martin. Thanks.

MR ROBERTSON: Was that a site visit that you went to alone with Martin or was there anyone else in attendance as well?---No, it was with William and I think it might have been my brother as well.

10 THE COMMISSIONER: So was Martin his surname or his - - -?---No. It's Mambraku or something like that.

Can you spell that?---I could look it up and send it through to you if you need it.

Something like Mambraku.---Mambraku. He was, he'd grown up in Fiji but he was from somewhere else.

And your brother also may have gone?---Yes.

20

MR ROBERTSON: Now, at around the time of - - -

THE COMMISSIONER: Mr Robertson, did you want to tender that May email before we get too far away from it, volume 16, page - - -

MR ROBERTSON: Thank you for reminding me, Commissioner. I tender the email from Mr Maguire to Ms Waterhouse, 12 May, 2017, pages 26 and 27, volume 16 public inquiry brief.

30

THE COMMISSIONER: Exhibit 257.

**#EXH-257 – EMAIL MAGUIRE TO WATERHOUSE DATED 12 MAY 2017**

MR ROBERTSON: So there's a site visit that appears to have occurred in about August of 2017.---Yes.

40

What then happens in this process?---Well, subsequent, oh, I don't know. I can't be sure. It was either prior to or subsequent to I also met with the, the 2IC of Country Garden in Australia, Mr Tim Lakos.

And Mr Lakos I think was the Head of Investment for Country Garden Australia. Is that right as you recall it?---Yeah. I just - - -

He was at least a senior person within Country Garden and was - - -?---He was?

He was at least a senior person within Country Garden?---I understood him to be the 2IC but - - -

And more senior than Martin?---Absolutely.

10 And that was a view to discussing things including price, was it?---I don't think we talked price. I think we just talked about the project generally, but I can't be sure.

And around about when was this occurring? Is this still in August or is this moving into September?---It was probably late August, just prior to or after the site visit.

20 Do you agree that in terms of price there was at least discussions between you and Mr Luong as potential prices at which you might be willing to sell the land and that Country Garden might be prepared to consider buying the land?---Yes.

Just for the benefit of the transcript I've got the spelling of Martin's name. Mambraku, I think M-a, M for Mike, b-r-a-k-u.

THE COMMISSIONER: Thank you.

MR ROBERTSON: And so you agree there was some discussion at least between you and Mr Luong in terms of price?---Yes, absolutely.

30 And would you agree that - - -?---There was quite a lot of discussion because he, he was trying to negotiate on behalf of - - -

And would you agree that by about September of 2017 it looked like you and Country Garden were getting quite close to a potential deal? You were getting close in terms of price and it at least looked like that there was quite a serious prospect that a deal would be able to be done.---Yes. The first time I took it seriously was around that time.

40 At that point in time or around about that point in time site visits are happening, discussions in terms of price, matters of that kind. Is that right?---Yes.

Now, a deal wasn't ultimately done for the sale of the SmartWest land to Country Garden. Is that right?---No. I mean, it's right it wasn't done.

As you understood it what were the impediments to Country Garden and you entering into some kind of a sale or similar agreement?---First of all I'm not so sure that they were seriously interested. I think William probably

trumped it up a bit. I think it was nowhere near as serious what he proposed. Secondly, I think that it was around the time where there was a change in direction coming from China with investment, and China was frowning on offshore investment for Chinese companies and so I think it just, certainly by, by mid-September I thought it was all over red rover.

10 When you say you weren't sure that they were seriously interested, what led you to the view that you weren't sure whether they were seriously interested?---It just seemed all too quick and too, just they didn't do, the fact that it was a junior person who came to do the site visit who was leaving the next week and it just didn't, didn't strike me as, as somebody who was doing proper work, due diligence if you like.

But why, what led you to the view that they weren't necessarily interested in your piece of land noting that as you understood it they were very interested in land at least around the Western Sydney Airport?---It's not a criticism of them. It's just that I didn't, didn't think, didn't think they were that serious because they didn't do a lot of work for it. But that was just my feeling.

20 Were there any other impediments, as you understood it, to a deal potentially being done for the sale of the land?---No.

None at all?---Well, they didn't do their due diligence so they didn't come up with any. I mean, they were, we were looking at different aspects of the land, but I don't, nothing was communicated to me at that point about impediments. Later on I think William said something or other about zoning or whatever, but that certainly wasn't at that point.

30 So you at least ultimately found that one of the potential impediments to a sale was the zoning of the land. Is that right?---No, because, well, eventually it became that way, but in the beginning it was expressed to me that it didn't matter to them.

But is it right to say that you later found out that that was one of the impediments or concerns at the Country Garden end?---By that stage I wasn't really worried about it. I wasn't interested.

40 You might not have been worried about it, but do you agree that you ultimately found out that one of the impediments, or potential impediments, to a sale of the land to Country Garden Australia was concerns by Country Garden Australia as to the zoning of the land?---It, it didn't really concern me and - - -

No, I'm not asking. Just listen carefully to the question. I'm not asking whether it concerned you.---No.

I'm asking you to confirm or deny whether you ultimately found out that one of the impediments to Country Garden being a potential purchaser of

the land was its concern as to the zoning of the land.---Probably, yes, William had said that to me. But perhaps by way of background, much of what we wanted to do could be done under the current zoning.

Does that mean you're agreeing with my proposition or not?---Well, I'm agreeing that William had said it, yes. But I didn't, didn't believe it was such an impediment because of the fact that much of what we could do was available under the current zoning.

10 So Mr Luong told you later in the piece that one of the impediments or potential impediments to a sale of the land was the zoning of the land, is that right?---I took that as an excuse, to be frank. I thought that was just them saving face.

So he at least told you that, is that right?---Yes, he did.

But you didn't necessarily believe that, is that right?---Yes.

20 Zoning of the land is, however, something that you are quite concerned about, correct?---Concerned about in terms of – it's an expression, "zoning". What concerned about, where we were concerned about to be included in what was going to happen out at the airport, and that our land – being to the west of the airport – should be seen as part of the picture. But it wasn't something exercising as far as classic zoning, "I want a rezoning", no.

THE COMMISSIONER: But my understanding is this area being developed around the airport is going to be known as the Aerotropolis. ---Aerotropolis, yes.

30 Aerotropolis. Was your concern that your land should be part of that Aerotropolis?---Yes. At least part of it, yes. And we'd made many submissions to say, "Please can we be in the club."

As at August 2017, had the geographical area of the Aerotropolis been defined?---No.

40 MR ROBERTSON: And so is it fair to say that zoning, in a sense – or using that term zoning – in a sense understates it? It's much more fundamental. Your concern is not merely whether you're in zone A or zone B, but, rather, whether your land forms part of the broader plans in terms of development in and round that Aerotropolis area. Is that a fair summary of what you're trying to explain - - -?---Yes, I think so.

- - - when I put the zoning question to you?---Yes. We were very mindful of the fact that we were strategically located right on the border of the airport, and we wanted to be able to facilitate what could happen on that property.

You were concerned in September 2017, and continued to be concerned, to ensure that in the future development plans of the Aerotropolis area, that your land was included as a site that would be earmarked for potential development, rather than it being reserved for land in the nature of rural land nor non-further-development land, correct?---Yes, exactly.

10 And, indeed, being included as part of those plans was essential to the SmartWest Sydney concept, because SmartWest Sydney is not about leaving the land essentially vacant, it's about developing it, correct?---Well, it's a grey area because it's not vacant. It's, it's a farm at the moment, and a lot of what one can do under the metropolitan rural zoning, you can do to, for agribusiness, et cetera. So it's a grey area.

Metropolitan rural zoning would not be zoning of a kind that would allow the SmartWest Sydney concept to be implemented, agree?---Well, our, no, I – certain things within the concept could be definitely done, absolutely.

20 But not the whole concept?---Well, we hadn't really formed our concept at that point. That was sort of ideas like free trade zone, et cetera. It was, it was really exploring opportunities.

THE COMMISSIONER: By the time you decided to sell the land, the real concern presumably would be what any potential purchaser wanted to do with the land and that would be a concern to that potential purchaser in terms of zoning?---In terms of this, the only time we were seriously thinking of selling was with Country Garden and I didn't see my role at all in helping them to do what – it was about do they want to buy, yes or no, and that was how it was from my perspective.

30 MR ROBERTSON: It's a bit more than that binary proposition, isn't it, because you would agree, wouldn't you, that if more favourable zoning for the land was contemplated and/or if it was included in the more general development plans for the Aerotropolis area, you would be more likely to be able to procure a higher price than if the contrary situation was the case? ---What it would do is improve the value of our and, yes, but - - -

40 And therefore increase the potential price for which you may be able to sell the land, do you agree?---Well, we were not looking to sell except for when Country Garden, through William Luong, came to us with this proposal. So I don't think it's correct to say that we were looking to rezone land to improve the price but we were certainly looking to maximise the economic potential of the land.

But you agree, don't you, that as at September of 2017 you were concerned with the status of what I'm calling the zoning of the land, but I'm using that in a broad sense to include whether your land was included in the more general development concepts in relation to the Aerotropolis area?---That's true. We wanted to be part of the club.

In terms of impediments to the sale, you have explained that Mr Luong said, and by the sounds of it you didn't believe him, that one of the potential impediments was this zoning issue that you and I have been discussing. Were there any other potential impediments that Mr Luong either explained in or around September 2017 or explained at some later stage?---Not that I can recall. I thought that Mr Luong had probably overstated the interest and overstated the situation and so, you know, when it, when it fell apart in mid-September it was like, "Oh, yeah. Okay, no problem. That's fine."

10

But I think you'd agree that, as least as you understood it, you got fairly close to doing a deal with Country Garden Australia, would you agree? ---Oh, I don't think so.

Well, you were at least getting close in terms of price, would you agree? ---Agreeing a potential price but we were a long way off doing a deal.

At least you hadn't got into any detailed due diligence of a kind that one would expect on a large transaction of that kind?---Yes, absolutely. And foreign investor and, and, and, and. These things are complicated. This was just a, yeah, it was a discussion on price.

20

So have you now exhausted the impediments that you understood were in place or arose in September of 2017 or that Mr Luong or anyone else later advised you of?---I think so. We are talking about a couple, three years ago but certainly in my mind I didn't dwell on it when it wasn't happening because it was yesterday's beer.

30

What about the location of The Northern Road and access to The Northern Road?---That's, that's something that was exercising my mind all the way along. Nothing to do with Country Garden, though.

Well, it's at least got something to do with Country Garden, does it, in the sense that favourable access to The Northern Road would likely increase the value of the Waterhouse Holdings, would you agree?---Oh, I don't – what it would do is improve the accessibility of the land, which improves the economic return but I don't think it's a, a clear relationship and it certainly never, it never occurred to me in terms of the Country Garden interest.

40

But presumably when you were considering selling the land, you wanted to maximise the price for that land, correct?---Absolutely.

And more favourable access to The Northern Road would increase the value of the land, correct?---Well, I, I have to say, I thought of it in terms of facilitating what was going to happen. I wasn't thinking about value and – for value for selling I'm talking about, yes.

It was at least something that was exercising your mind at or around the time that you were considering selling the land. Correct?---It was exercising my mind from, for about a year and a half to two years and it just part of that time did tap into – well, I don't even know that it did cross over the Country Garden period because the Country Garden period was very short, it was only about a month where there was any serious interest.

10 But when the serious interest was happening you didn't go in your mind, oh, well, I don't need to worry about the road anymore, I'm just going to sell it and be done with it, but - - -?---No, no, I didn't. It certainly didn't stop what I was interested in doing.

What I've called the zoning issue, accepting it's broader than mere zoning, and the location of the road - - -?---Not the location, it's the intersection.

In particular the access to The Northern Road and where the intersection would be, those are matters that have concerned you for some time. Agree? ---Yes, yes.

20 In particular in relation to development because for one to be able to unlock the land in such a way as to develop it properly, one wants the best possible access to The Northern Road and therefore to the airport site. Correct? ---That's correct.

But also you must agree that having that sort of access would be likely to increase the value of the site. Correct?---The economic potential of the site, yes.

30 The economic potential of the site and therefor the potential sale price in the event that you decide to sell it.---I know we'd discussed selling with Country Garden but it wasn't really our agenda to sell the property, so we didn't think about increasing value, we – or sorry, the price, we thought about increasing value, as in economic potential.

But you're not suggesting, are you, that the roads issue and the zoning issue had nothing to do at all with the potential sale to Country Garden, are you? ---I didn't think of it as the time, at the time, no.

40 Even though both of those issues if sold had the potential to increase the value of the site and perhaps might even increase the possibility of a sale taking place?---(No Audible Reply)

I'm not suggesting it was just relevant in that context.---Right.

It's something that was exercising your mind for some time.---I think you're drawing too wide a bow. Country Garden was in my view all over red rover in mid-September and it was really just a blip along the screen because they'd come out of the blue wanting to – when I say “they”, William Luong

– came out of the blue, but I'd been trying to do different things with regards to it, the access to the road which was an intersection was something that I'd been discussion with various parties, I'd had maybe 20 meetings with different authorities about this road.

You say all over red rover, but all over red rover why?---Because I was busy doing other things and I just thought, well, it's a bit of an overstatement from William that that was what's going to happen.

- 10 But I'm trying to understand why you came to the view that Country Garden was not seriously interested in the site in circumstances where there was at least some negotiations with a view to leading to a potential sale?---Well, they never gave us a letter of offer or anything formal or any nature apart from what William told me, so - - -

But you were presumably negotiating in good faith with the possibility of selling the land to Country Garden. Is that right?---Up until the time, that short period of time in September.

- 20 But I'm trying to understand why, as you understood it, did those good faith negotiations fall off the cliff and lead to you coming to the view that Country Garden were not seriously interested?---Well, two things. One is I wasn't so sure how serious they were in the first place. Secondly, there was a change, a shift in China that I think they were denied, not allowed to send money out of the country and it was quite a turbulent time with Chinese investment and - - -

- 30 Why were you not sure whether they were interested to start with?---Well, I was dealing with William, I wasn't dealing, I'd met once with Tim Lakos, he seemed to be big picture type of thing, not, he hadn't really addressed all the, just, just a gut feeling I suppose.

So did you come to the view that Mr Luong was sort of overselling his hand, as it were, he was trying to present to you a very interested buyer but you were uncertain or at least suspicious as to whether there was a serious buyer?---I can't say suspicious but I didn't place a lot of faith in it.

At least uncertain.---I didn't put a lot of faith in it.

- 40 He stood to gain a very significant service fee in relation to selling the land, but you weren't quite sure whether there was a willing purchaser at the end of the line. Is that a fair summary of what you're saying?---I have a lot of agents come along and they're always talking big and, you know, promising the world and et cetera, et cetera, so that's part of the modus operandi, they're trying to get your attention and they're trying to get a deal happening, but - - -

After you came to the view that the potential deal had effectively fallen over, were further steps taken with a view to reviving the deal or, at least as you understood it, from about mid-September or perhaps a little bit later in September it was, to use your term, all over red rover, let's not worry about Country Garden anymore, let's look at potential alternatives?---Certainly not through William, not that I'm aware of, no.

But you still remained in contact with Mr Luong. Is that right?---A little bit. Not really.

10

What was the purpose of the further contact with Mr Luong?---I know that he contacted me the next year when he wanted us to invest in a property proposal. He'd bought some land or had an option over land in Cawdor, C-a-w-o-r [sic], and he said that he'd bought the land very cheaply and it was beside land that Country Garden had bought and another company, and it was going to be worth a lot of money and would we like to invest.

And when you say the next year, I take it you mean 2018?---Yes.

20

Can you remember approximately when in 2018 that was?---Probably February.

And was that the only matter that was being discussed with Mr Luong at that time or is it possible that Mr Luong at least still held out hope of being able to broker a sale of the SmartWest site?---He certainly held out hope because prior to this he came to see me, probably in September I guess, and he said, "Look, Country Garden might not be interested but I can find other people." And, and I said, "No, I don't want you touting the property."

30

So is it fair to say that, at least as you understood the position, come mid-to-late September the idea of selling the SmartWest site was off the table at least in your mind?---Through William Luong, yes.

Through William Luong specifically or generally in terms of sale?---Well, we were not considering selling, but I was still thinking about joint venture partners, et cetera, but not through William.

40

And you never know what's going to come through the door the next day. If there's a very high price you might ultimately come to the view that you will sell even though your preference is to develop rather than sell. Is that right?--- Yes.

But Mr Luong was still attempting to convince you to engage him or to procure a sale through him. Is that right?---Yes, exactly.

And that continued not just in September but continued at least in subsequent months. Is that right?---Oh well, there was one meeting where

he came to see me to say, you know, could he be, you know, could he be our agent if you like, and I said no. I don't know that there were other meetings.

But it was at least clear to you that Mr Luong hadn't given up, as it were. The core period was around August/September.---Yes.

10 It had fallen over so far as you were concerned but Mr Luong was still, as you understood it, attempting to broker some sort of a deal.---Oh, I think that's a long bow. He certainly didn't communicate that to me except for when he came to say can I have an agency.

And so are you saying there was essentially a period of radio silence between about late September of 2017 and a further meeting sometime in the new year?---I can't say radio silence. He might have called me to, but I certainly didn't engage with him actively.

That subsequent meeting in 2018 that you refer to, can you recall where that took place?---In my office.

20 And was the last time you had any in-person meeting with Mr Luong?---I can't remember. I don't, certainly when he came along he gave me some information for Cawdor, which I passed on to someone I knew just trying to be helpful, but I don't think anything happened. But, look, he, I can't quite remember but I don't think there was anything, not that I, was memorable anyway.

And your best recollection is that that would have happened about February or so of 2018. Is that right?---Probably.

30 In relation to the roads issue that you've identified, did you ask Mr Maguire for any assistance in relation to that issue?---Yes, I - - -

THE COMMISSIONER: Sorry, Mr Robertson. If you're going to a new topic, don't be judged by the clock. It's an hour out.

MR ROBERTSON: Could I have about five minutes or so on this topic?

THE COMMISSIONER: Very well. Yes.

40 THE WITNESS: I was becoming very frustrated because, despite what I thought was a really good proposal to adjust the location of the intersection of the new redirected Northern Road, The Northern Road, it didn't, it seemed to be going nowhere, and I one day mentioned it to Daryl. I think I went and saw him.

MR ROBERTSON: So you asked Mr Maguire for assistance in relation to that issue. Is that right?---Advice.

What's the difference in your mind?---What I should do.

And I'm just going to show you some messages between you and Mr Maguire. Can we go to intercept number 2869, please. So what I'm going to show you are some messages sent between what appears to be your phone and Mr Maguire's phone.---Ah hmm.

That the Commission has obtained by way of interception of that communication.---Ah hmm.

10

So we're now on the 16<sup>th</sup> of October, 2017.---Yes.

"Hi, Daryl. Louise here. Just wondering if you have time for coffee some time. Cheers, Louise."---Yes.

I'll then take you to the next one.---And I think that's when I wanted to ask his advice about the road. That would be consistent.

20

And so to try and put that in the timeline that you and I have been discussing today, by sort of mid-to-late September, at least in your mind, the Country Garden deal had fallen over. You're now back to - - -?---Back to basics.

Back to basics, back to plan A, which is development of the site.---I actually never left plan A but, yes, focusing on - - -

At least plan B is out of the way. So far as you're concerned, you're back focused on plan A.---Yep.

30

Important to plan A, I think you would agree, is what we've discussed as the roads issue and what we've discussed as the zoning issue, would you agree?---Just trying to make everything as, yes, as, as good as, simple as, as best as possible, that's right.

40

But aren't you underselling it? For the SmartWest concept to be achieved to its maximum extent and in the most profitable way and in the best way as you saw it, you needed to deal with both what we've described as the zoning issue – which I'm meaning in that broad term, including your land as part of the overall future development plans on the site – and the best possible access to The Northern Road, do you agree?---Yes, that's correct.

And do you agree that by about mid of October 2017 you were asking Mr Maguire for his advice in relation to those issues?---I think it was about the road I was concerned about.

So at least principally about the road?---Yes, yes.

But the road issue and what we've been calling the zoning issue are matters that have been exercising your mind for some time, correct?---Yes, absolutely. You call it zoning, but I call it being included in the general future of the airport.

So let's call it planning generally.---Thank you.

Master planning generally. Let's call it that.---That's it. That's it.

10 So you were concerned about master planning generally and you were concerned about access to The Northern Road, correct?---Yes.

You'd already taken some steps in relation to those two issues, correct?  
---I'd made submissions to - - -

You'd made submissions, for example, to Greater Sydney Commission, correct?---Yep, yep.

20 And at least to some degree you were concerned that the submissions that you had made might not be ultimately taken up by the Greater Sydney Commission in relation to its planning or by the relevant roads authorities in relation to the roads, is that right?---Yes. See, with the roads I'd had many meetings, and at that stage I felt every meeting with the different officials was very reasonable and understanding of what I was suggesting, but then it seemed to be the door was slammed each time. And so by mid-October I was thinking maybe Daryl has an idea of what he'd suggest I could do.

30 You're attempting to deal with those two issues as best you could through the kinds of processes that you've identified, and you wanted to ask Mr Maguire for his advice as to what further steps that you could take. Is that fair?---Yes.

We'll go back to these intercepts. We'll go to 2870. Commissioner, I'll be going to a few, but I propose to tender them as a bundle.

THE COMMISSIONER: Very well.

40 MR ROBERTSON: Can you see it says, "G'day, this week I'm very flexible. Just giving you a heads-up." Go to the next one, 2871.---That's from him to me?

That's from Mr Maguire to you.---Ah hmm.

In response to your message about "Let's have a coffee." Just to help you with the timeline, these are the 16<sup>th</sup> of October, 2017. So we're mid-October at the moment. We'll go to 2871 next. What we might do, Commissioner - - -

THE COMMISSIONER: That came and went very quickly.

THE WITNESS: I'm not that quick.

MR ROBERTSON: What we might do, if it's convenient, is take the adjournment now and I'll get these put together in a bundle ready to go, which will be marginally quicker.

10 THE COMMISSIONER: Very well. Ms Waterhouse, we're going to take a 15-minute adjournment for morning tea, which I hope Mr Beazley will somehow be able to arrange for you in a convenient way. And as I say, the clock has not yet been adjusted. So, 11.45. We'll now adjourn.

**SHORT ADJOURNMENT**

**[11.35am]**

20 THE COMMISSIONER: You continue to be bound by your oath, Ms Waterhouse. Yes, Mr Robertson.

MR ROBERTSON: So I'll put those text messages back on the screen. We'll start with 2869 again, which is the first one that we went to and we'll flick through them quickly. We've showed you that one, 16<sup>th</sup> of October, 5.54pm, you wanting to meet up with Mr Maguire.---Yep.

30 We'll go to the next one, 2870, "He's flexible, give me a heads-up." Next one, 2871, "I'm coming to town tomorrow and subject to a final confirmation could meet early afternoon. Would that suit?" Next, 2872, "After QT," which probably means question time, "say 3.30?" And then the next one, "Would 3.45 also work?" And then next one, "Yes, very good. See you then."

I tender telephone intercepts 2869 to 2875, being a series of SMS messages between Ms Waterhouse and Mr Maguire.

THE COMMISSIONER: Exhibit 258.

40 **#EXH-258 – TRANSCRIPT OF INTERCEPTED  
TELECOMMUNICATIONS SESSION 2869-2875 - SMS MESSAGES  
BETWEEN WATERHOUSE AND MAGUIRE DATED 16 OCTOBER  
2017**

MR ROBERTSON: I take it you agree that you exchanged those SMSs with Mr Maguire?---Yes, indeed.

And what did that lead to? Did that lead to a meeting the next day as seemed to have been contemplated by the SMSs?---Yes, yes.

And did that occur around 3.45 or thereabouts as we saw on the screen?  
---I'd assume so.

And so what happened? So you go into Parliament House and attend on Mr Maguire, is that right?---We went and had a coffee or I had a tea in an anteroom off the Strangers' Dining Room.

10

And then what – so let's deal with it in stages. You come off Macquarie Street, go through the security and then go the security desk, is that right?  
---Yes. And I say, "I'm here to see Mr Maguire."

Yes. Mr Maguire then, what, comes down?---Comes down and he - - -

And what happens then?--- - - -takes me into the, there's a bar area in Parliament House where you can order coffee and tea. He, he ordered a coffee.

20

THE COMMISSIONER: Overlooking the Domain?---No. No, this is sort of a, to the right. So I think it might be the members' bar area. And so I had a peppermint tea, I don't know what he had, and then we went into the room which adjoins the, the anteroom of the Stranger's room and sat in the lounge there.

MR ROBERTSON: And what matter did you discuss? Did you discuss the matter that was referred to on the SMSs or what did you discuss with Mr Maguire?---I don't think anything was discussed on the SMS, was there?

30

No, the SMSs suggested that you wanted to set up a meeting to have a discussion with Mr Maguire, at least a coffee.---Yes, yes. I, I raised with him the frustration that I had with the intersection and I said to him that I felt that it was just getting nowhere and did he have any ideas about what I could do.

And what ideas, if any, did Mr Maguire give to you?---He said, "Just a moment, come with me." So we, I went up with him, I didn't know where I was going, I went upstairs somewhere in Parliament House and he said, "Sit there." And I sat in a very plush sort of area and about 20 minutes later he said, "Come on, we're going to see," what was this, the parliamentary liaison officer, I think his title was, for the Minister for Roads. So we went into a little office and I met with a Mr Jock Sowter.

40

Let's just deal with that in parts. So you come into Parliament House, you report yourself to the security desk in the usual way, you have a cup of tea or something with Mr Maguire, and you start discussing your concerns about what we've been calling the roads issue. Is that right?---Yes.

Mr Maguire is saying, "Well, let's deal with this now." He takes you away to another room. Is that right?---Another area.

At least another area.---Yes. It was an upstairs area.

Do you know what that area happens to be?---No.

10 It was at least on a different level to where you first had, first had a couple of teas?---Yes. I'd never been there before, and I'd been to Parliament House many times but I'd never been into that area.

Now, was that in the main part of the parliamentary building where the chambers are or was that in the adjoining building that has a number of levels and has a number of members' and others' offices in it, do you remember?---We went up in the lift. It could be an adjoining building.

20 So it was at least on a different level to the level that you enter once you go up the steps from Macquarie Street. Is that right?---That's right

THE COMMISSIONER: Did you go past yet another sort of security desk to go into that area?---Yes, yes.

MR ROBERTSON: And so do you know what that particular area was? You're referring to somewhere with some plush sofas or something like that?---Yes.

30 Do you know what that room was allocated for or what that area was allocated for?---No.

So you're taken there with Mr Maguire. Is that right?---Yes.

And then what happens then, are you left there and he just disappears? ---He just said, "Come with me," so I didn't know what he was doing. Sorry. So then after about 20 minutes of sitting there he came and said, "Come, I'm going to introduce you to Jock Sowter and you can tell him your concerns."

40 Now, during that 20-minute period are you sitting there with Mr Maguire or has Mr Maguire gone off somewhere and left you there?---Sitting there like a lost child.

And just doing the best you can - - -

THE COMMISSIONER: Sorry, do you mean alone or with Mr Maguire? ---No, I was alone.

MR ROBERTSON: And doing the best you can, could you just describe the area where you were sitting on your own for 20 minutes? I think you said some plush sofas and things.---Yes, so - - -

A few seats around the place. Was there a reception area or anything like that, like a receptionist or anything like that?---There was no receptionist there, no, but it was an ante, a foyer-type area.

And what, you come off a corridor and you sit in a foyer-type area?

10 ---Oh, I remember going through a door and being told to sit there and I sat there, and people were coming and going around me, though, doing their, going about their business.

So was there anyone permanently situated in that area or was there just a lot of toing and froing?---I can't remember anyone being permanently situated in that area, I certainly didn't chat with anybody, and if there had been a receptionist I would have chatted with them.

And so Mr Maguire deposits you in that area on the plush sofas?---Yep.

20

And then goes where as you can see it?---Oh, I don't know. He came back and got me and took me to a little office where I met with Mr Jock Sowter.

Does Mr Maguire go out back into the corridor and disappears or does he go into one of the rooms adjoining the area where you were sitting on the plush couches?---I can't swear to, I don't know.

Could have been either way. Is that right?---I would guess he went outside but I don't know.

30

But you were sitting there on your own for about 20 minutes or so, is that right, and then Mr Maguire ultimately comes back?---Yes.

Is it possible that the area that you were sitting in was the reception area or ante room to the Premier's office?---Could be. I didn't see the Premier though.

You don't know one way or the other?---Don't know one way or the other.

40

And so Mr Maguire ultimately comes back and then what, takes you out of that room, is that what you're saying?---Yes.

And takes you to some other room?---Yes.

And you go to the other room and you have a meeting with Mr Sowter. Is that right?---Yes, yes.

Mr Sowter was I think parliamentary liaison officer for the Minister for Roads.---That's right.

Minister Pavey I think was the minister at that point in time.---That's right, yes.

And you then have a meeting with Mr Sowter and Mr Maguire - - -?---Yes.

10 - - - regarding the roads issue. Is that right?---Yes. It was mainly me explaining the situation to Jock Sowter.

And so you were explaining your concern about, in particular, the proposed location of the intersection to the redirected Northern Road. Is that right? ---Yes.

20 By that point in time had you or anyone associated with your family either purchased or investigated purchasing some further land around its existing landholdings to get better access to The Northern Road?---We had contemplated it and I met with the owner of some land across the road, but nothing, there was no seriousness, no.

Just something that was contemplated but wasn't particularly well-progressed. Is that right?---No. The, the intersection was what we were talking about, moving the intersection 300 metres to the north, which would have then meant the intersection would connect with this area west, but it didn't connect with our land, it connected with neighbours' lands, so we still would have had to solve the next puzzle, but it would have at least been in the right vicinity.

30 And so the particular room where you had the meeting with Mr Sowter you're quite clear in your mind that that was a different room to the room where you were sitting on the plush couches?---Yes.

And it was, what, a smaller and less salubrious location than the first room that you were sitting in. Is that right?---Yes. It looked like a functional space.

40 And so you explained to Mr Sowter your concerns regarding what we've been calling the roads issue. Is that right?---Yes.

What does Mr Sowter say during the course of the meeting?---Oh, he's, he takes it up. I mean it was in the context that I'd already written to the minister several months before and - - -

THE COMMISSIONER: Minister Pavey?---Yes. And other parties had written to many people about the roads, the road issue, intersection and commissioned engineers drawings to say how it would work and I'd gone down to Canberra. I met with DIRD and different parties. I've met - - -

MR ROBERTSON: Sorry, you'll need to translate that acronym for those following on.---There you go, I've got one to beat you. DIRD is the Department of Infrastructure and Regional Development. So they were in charge of the airport at that stage.

This is a matter that you had been dealing with for some time. Is that right?  
---Absolutely because - - -

10 Both on a Commonwealth level and on a state level?---By way of background, when it was first advertised the road was going to go through the western part, the area I'm talking about, not necessarily our land but within that area. Then lo and behold the road is moved back. We're not notified. It's not advertised that it had changed or not advertised to us, and so, and it turned out at that stage there were two intersections going into another land, large landowner, and not one that would open up the west area or one that would open up the southern area, Dwyer Road. And so I was trying to point this out so that government officials could rectify it.

20 And you pointed that out to Mr Sowter. Is that right?---I did.

What did Mr Sowter say in response?---He said he'd look into it.

What did Mr Maguire say, if anything, during the course of this meeting?  
---Oh, nothing that I can remember, but obviously he'd arranged the meeting.

But he was taking up the cudgels as it were. He was trying to communicate to Mr Sowter that there was an issue here that he might wish to investigate.  
30 Is that fair?---He wasn't across the detail at all.

No.---But he just said Louise has got a concern here, can you listen to her.

But you must have sufficiently convinced him, when having a cup of tea, that the issue that you were raising was a matter of sufficient substance to draw it immediately to the attention of an appropriate official. Is that right?  
---Absolutely. I was concerned because of the lack of futureproofing. I was seeing millions of dollars spent on a road being built which was being diverted but not having the proper intersections to facilitate sensible  
40 development of the area.

But Mr Maguire didn't simply deposit you and Mr Sowter in the meeting and then disappear or sit back mute in the corner. He was supporting you in terms of what you were communicating to Mr Sowter. Would you agree?  
---Oh, he certainly was in the room and he certainly was supportive but whether he actually vocalised that support apart from saying listen to Louise or can you have a listen to Louise's concerns.

Well, he at least gave some indication to Mr Sowter verbally that your concerns should be listened to and taken account of. Would you agree?  
---Absolutely.

Now, in the 20 minutes or so when you were left alone in the room with the plush couches, Mr Maguire ultimately comes back. Did he ever explain to you where he was or what he was doing during the course of that 20 minutes?---No.

10 Sorry, you need to answer out aloud.---Sorry. No, no.

Did Mr Maguire ever suggest to you that he was seeking to raise your issue with people within the Premier's Office?---Oh, I think he probably would have, yes.

In connection with - - -

20 THE COMMISSIONER: On this day, which I think is by now 17 October, isn't it?

MR ROBERTSON: That's right.---It's three years ago. I, I can't, I remember being very focused on the fact that I had the chance to meet Jock Sowter.

Well, do you agree that Mr Maguire, whether on 17 October or on some other day, made it clear to you that he was going to take up your issue with either the Premier or the Premier's Office?---Yes.

30 And are you able to assist us as to whether it was on 17 October, which appears to be the date that you were in Parliament House, or whether it was perhaps some date earlier or some date later?---I can't imagine it would have been earlier because I hadn't raised the concerns with him I don't think at that stage. I certainly wrote to the Premier about a month later because I was concerned and I just thought she should be aware of it. Now, I, when I wrote that letter I can't remember thinking she knows all about it because of Daryl saying something so therefore I can't be sure.

40 Is it possible that during the 20 minutes where you were left alone Mr Maguire was attempting to raise your issue not necessarily with the Premier but at least with people within her office?---Anything is possible.

Did Mr Maguire say to you that that's what he was doing during the course of the 20 minutes?---No.

THE COMMISSIONER: Ms Waterhouse, if you went to Canberra, as you said, to see DIRD, how did you understand the interrelation – we're talking now on 17 October and prior to that I gather, I take it had been to Canberra to see DIRD prior to 17 October.---Yes.

How did you understand the interrelation between federal and state authorities in terms of ability to relocate the road or roads?---So the road was – it was relocating the road, it was just moving an intersection.

I'm sorry, well moving the intersection.---Yes. So we saw that as a fairly minor adjustment, which we actually had engineers, commissioned engineers and the RMS people told us that their own engineers had, had said yes, it was feasible.

10

So that's a state road - - -?---State thing but how, how did I – the interaction. So the Federal Government was funding the road to be diverted in the main, I think 60 or 70 per cent of the road but it's a good point you raise because each person, when we met with RMS, they would say to us, "It's the Federal Government," and when we, when I met with the Federal Government, they would say, "That's the State Government." But DIRD did make, as a result of my visit down to them, probably maybe in August or I can't remember when it was, they did contact WSA, I think it might have been by that stage and - - -

20

Which is what?---Western Sydney Airport. I think they might have just been formed or about to be formed. And then they also contacted RMS and they wrote back eventually and said, "Sorry, whilst we agree it's a great idea, it's too late."

To move the intersection?---Because we, because we didn't, they didn't want to risk anything to delay the airport completion date.

30

But was that before this meeting with Mr Maguire or sometime later?---The, the meeting I had with DIRD was before.

But that decision, the letter saying it was too late?---Came afterwards. Came in December actually.

MR ROBERTSON: Is it fair to say that one of the things that you were concerned about as at 17 October, 2017, was potential, what I will call, buck passing, the Commonwealth blaming the state, state blaming the Commonwealth, different agencies blaming each other?---Absolutely.

40

And you were hoping that Mr Maguire might be able to assist in acting as or finding a circuit-breaker that would allow the roads issue to be grappled with and dealt with, is that right?---Properly understood and dealt with. That's all I was asking.

Properly understood and dealt with. - - -?---To get proper attention.

- - - by the appropriate authority or authorities, whichever they might be?  
---Yes. I understand everybody's trying hard, they're working hard, they're

trying to get things done to a deadline so they don't want to have anything that complicates things. So I understood that it would have been easiest, easiest for them to do nothing. So I was looking to get somebody at a higher level who could look at it and look at it sensibly.

And you were hoping Mr Maguire may be able to assist you in finding that person at a higher level in order to assist, is that right?---It was an angle or an opportunity, yes, but it wasn't, wasn't the only – it was just me thinking aloud really.

10

You were doing a series of things and one of the things you were doing is engaging the assistance of Mr Maguire who in turn got you in front of, for example, Mr Sowter?---Well, you say engaging, I went to get his advice about what, what he thought I should do and he then basically took me in hand and took me up there. So I hadn't engaged for him to do something but he took the initiative to do that.

You at least sought his advice and ultimately he provided not just advice, he provided assistance, is that right?---Exactly.

20

Have you now exhausted everything you can recall about the meeting with Mr Sowter and Mr Maguire on, it seems, 17 October, 2017?---It, Mr Sowter asked me to send him a letter explaining it all very clearly, because it was only a very brief meeting, so that he could take it up with the relevant parties.

Doing the best you can, around about how long was the meeting with Mr Sowter and Mr Maguire? Was it five minutes, 10 minutes, an hour, what was it?---10 minutes maybe.

30

10 minutes?---10 minutes maybe.

And what happened after the meeting had come to an end?---I left and I went back and I started to draft the letter.

Did you have any further meeting or anything like that with Mr Maguire or was that the end of your occasion to visit Parliament House and - - -?---I think so.

40

And so one of the things you did after the meeting was prepare some correspondence for Mr Sowter, is that right?---Yes, I did.

Can we go please to page 50 of volume 16, and I'll ask you whether this is some of the correspondence you sent to Mr Sowter. To help you with your bearings, it looks like your meeting with Mr Sowter happened on 17 October, this is now an email of 18 October, 2017. "Dear Jock, thank you for taking the time to assist us with our concerns regarding final planning

for The Northern Road airport intersection location,” et cetera. And so is this one of the bits of correspondence you sent to Mr Sowter?---That’s right.

And you’ll see you sent it to Mr Maguire as well?---Yes.

And you say in the final paragraph, “Thank you again for taking up our concerns within the Ministry and the RMS.” See that there?---Yes, yes.

10 And then did you then follow this email up with a more comprehensive letter of information to Mr Sowter?---I think it would have been attached, the letter. No?

THE COMMISSIONER: Who are Mr Scully and Ms Lunney?---So they’re the people that were responsible for The Northern Road within RMS.

I see. Thank you.---And I had met with Ms Lunney before, and at that time she was the one, she apologised that we hadn’t been advised about the change in the location or the change in the direction of the road, and but her comment was, well, look, again this is, everybody’s saying (not  
20 transcribable) was, we’ve not been told by anyone that anything’s going to happen west of the airport, therefore we’re not planning for it, because the issue was the intersection that was planned, or intersections, were dead-end intersections. They were three-way intersections, not four-way, and dead-ending to a private landholder. And so her response at the time was, well, we don’t know of anything that’s happening out west and we can’t plan for what we don’t know. So I saw that as my goal is to let people know what was being planned for out west.

30 MR ROBERTSON: And so for practical purposes, that would mean that your land would effectively be landlocked, at least on the eastern side of the land.---No. No, no, not landlocked because we had access to the roads but not the, not, and we had indirect, circuitous access to The Northern Road.

That’s in fact what I meant. You’d still have access to roads but not convenient access to The Northern Road.---Not efficient access.

THE COMMISSIONER: And by this stage was the Aerotropolis geographically defined?---No.

40 But that was something that later came to be defined, is that right?---Yes.

At least in general terms.---Yes. But there are various stages.

MR ROBERTSON: Can we go now to page 51. That last document, Commissioner, was Exhibit 249.

THE COMMISSIONER: Yes, thank you.

MR ROBERTSON: I'm now going to Exhibit 250, page 51 of volume 16. And so now we've got a letter dated the 19<sup>th</sup> of October, 2017, to Mr Sowter. Is it consistent with your recollection that, in addition to the email that we just saw, which was dated the 18<sup>th</sup> of October, 2017, you sent a more fulsome bit of correspondence to Mr Sowter?---Yes, it is. I just wonder if that went at the same time. It was sent separately, was it?

10 THE COMMISSIONER: It's dated 19 October, Ms Waterhouse.---Could have been a typo from me. The email didn't have an attachment, you're saying?

It didn't look as if it had an attachment.

MR ROBERTSON: I think the answer is no. I think these are two separate documents.---Okay. Okay, well, a follow-up letter.

One way or another - - -?---Whatever it was, he asked me to do a letter for him to explain it all, so this was the letter.

20 But one way or another, whether on the same day or on successive days, there was some communications to Mr Sowter, including a more detailed description of the issue in the letter that we can see on the screen?---Yes.

And if we just turn the page on that particular letter - - -?---Ah, they're my intersections. It explains it there.

30 So the particular matter that you're raising with Mr Sowter is the concern about the intersections, as sought to be demonstrated by what we can see is figure 1 on that particular screen, is that right?---Yes, so you can see the dotted line shows the circuitous route that one would have to drive - - -

THE COMMISSIONER: Which dotted line?---In figure, oh, that's right, the blue dotted line. So the planners did this, our planners. They said they were concerned about a rat run being done along Greendale Road. And then secondly with the blue dot, which turns out was in the wrong location on this map, it wasn't going on to Dwyer Road, it was going just into the private landowner. And then the bottom red dot was also going into the private landowner, and our proposal was to move the southern red dot 300 metres to the north, to the other red dot, and what that would have done  
40 would have still serviced that landowner, but it would have also then made an opportunity for either RMS or council or ourselves or anybody to gain a right of way over the landowner and then connect through to Willowdene Avenue, which would have opened up 50 or more landowners.

Which is your land?---The blue, where it says SmartWest Sydney.

Oh, I see, yes. Hard to read. Thank you.

MR ROBERTSON: And if we just scroll up the page just a little bit, please. Just have a look at the paragraph that's got two dot points. And so is it right to say that you were really raising two significant issues with Mr Sowter? One, which is in the second dot point, is the road-planning issue.---Yes.

And the second one, which is the first dot point, is to recognise in infrastructure planning that the SmartWest site will, sooner or later, be zoned for urban development. Do you see that there?---Yes.

- 10 And so those, I accept that they're overlapping issues, but those are the two issues that you were particularly concerned about. One was what you and I have described as master planning, including zoning, and another one was the roads issue, in particular access from your site to the deviated - - -?  
---No, not from our site. From our area.

Well, including your site.---Yeah, I mean the access I was proposing was not to connect to our site, it was to connect to the area which would then have allowed further roads to be developed to open up - - -

- 20 No, but the particular reason that you were interested in it was to ensure that there would be access to your site. Correct?---Eventually.

- It might have had some flow-on benefits for others as well, but the reason that you were particularly exercised was that it would give convenient access to your site. Is that right?---Well, I think that's, that's too far because this was not connecting to our site. Our site connected to Willowdene Avenue and Willowdene Avenue, if you look on the map, is a little road that meanders up to the north. Where we were talking about the intersection was just for futureproofing. There was no road connection through to  
30 Willowdene Avenue. It was a pure futureproofing proposal.

Well, ultimate convenient access from your site to The Northern Road. Is that right?---Opportunity for ultimate convenient access, yes. In other words, it made sense to have something that was futureproofed for future planning.

- So you wanted to make sure that ultimately there could be access from your site to The Northern Road. Is that right?---Ultimately there could be direct, or direct-er access, yes. We had access by going around the world.  
40

Yes, but that's not a convenient access at all, and if you're seeking to - - -?  
---Not an efficient access, mmm.

If you're seeking to develop that for the kinds of things that the SmartWest concept was talking about, that would be a significant impediment and inconvenience to go west as it were, instead of to go east. Is that right?  
---No, we wouldn't go west, we'd go north along Willowdene Avenue.

Well, north.---Yes.

Northwest then north then east and then south.---Sorry.

Is that right?---You want me to be accurate though, don't you. So, and the other point which is not perhaps here is that DIRD had given two latitude points about where they should, the intersection into the airport should be, two parameters, and they had said they would prefer it to be halfway between the two runways for various reasons, including risk reduction, so that you don't have a road under - - -

THE COMMISSIONER: A crashing plane.

THE WITNESS: Or if somebody has the wrong interest to cause problems. So, and they told me that we, our preference is to have it halfway between the two runways, so then they gave the two longitudinal points, but lo and behold, when the intersection was put in on the plans, it was on the very southern point of those two points, and the intersection into the airport wasn't halfway between the two runways but actually closer to the southern runway. And so I realised that point and then I realised a halfway point between the two runways was actually the point that opened up that area west of, of the, and so that's where it was a two, two-pronged argument, and the reason I talked about infrastructure planning was because of what Kate Lunney had said to me, "We don't have any idea of what's happening in the future so we don't, you know, it would be good to know what's going to be done out there so everybody can make the planning," because everything was happening very quickly and everyone was trying to get things happening and working together and, but they also don't want to make it more complicated.

THE COMMISSIONER: So by this stage, in October 2017, earlier in the year when you spoke to Mr Maguire you'd had this concept of a free trade zone and then there was a prospect of the sale to Country Garden which had by now I gather fallen through, in your mind at least.---Yes.

Had your thoughts about the use of the SmartWest land remained as a free trade zone or did you have some other concept by then?---No. To clarify that point, free trade was a part, like a part of a puzzle.

Of an overall concept?---Yes.

Which was?---So, well, our view was to be able to facilitate cargo for export to Asia.

Right.---And specifically food, and that developed further when the New South Wales farmers later in November that year developed their or proposed their idea for an agri precinct, but we were already in that sort of

zone about how could we help facilitate export, because we saw ourselves as being on the cargo end of the airport, not on the passenger end.

Thank you.

MR ROBERTSON: So I think we're in furious agreement that the two dot points that were identified on the letter identified the two principal concerns that you had at that point in time and that you wanted Mr Sowter to make some inquiries with respect to. Is that right?---Yes. I didn't see him as  
10 infrastructure so much, but I was putting it in there because that was part of the picture, and I saw his role as trying to find out who I could talk to or who we could write to or whatever about the issue, bearing in mind I'd had no response to the letter to the minister - - -

They were the two principal - - -?--- - - - which had been sent - - -

I'm sorry?---The letter which had been sent several months before I had no response to and so I just thought, they get so much correspondence that it's fallen under the bar.  
20

They were the two principal concerns that you had at that point in time. Is that right?---Yes, yes.

Now, you send this letter off it looks like 18 or 19 October. What happens then in relation to this issue?---Don't hear anything and about two weeks or three weeks later I sent Jock a little friendly reminder.

Was that something you did off your own bat or did you seek some further advice from Mr Maguire or anyone else as to - - -?---I think - - -  
30

- - - what you should do when you hadn't heard from Mr Sowter?---I think I would have asked Daryl.

And do you recall what Mr Maguire had to say regarding that - - -?---I said, "Do you think it would be too, too much if I sent a follow-up email," I think and he said, "No, send it."

Let me help you this way. Can we play telephone intercept 3049. This may be the very telephone call that you were just drawing attention to. This is 23  
40 October, 2017 so a few days after the letter of 19 October, 2017.---So what, is that the, okay.

23 October, 2017 is the telephone intercept I'm about to play you.  
---Ah hmm.

And the letter that I showed you a moment ago was 19 October, 2017, so about four days later.---I wasn't very patient, was I.

THE WITNESS: There's a small correct in there, where it says "sold" and it should be "solved."

MR ROBERTSON: S-o-l-v-e-d rather than sold?---Yes.

10 But other than that, you agree that the transcript correctly identifies the words you uttered and the words that Mr Maguire uttered?---Yes.

And it was consistent with your recollection of what you said before, a discussion with Mr Maguire about what you should do in light of the fact that you hadn't heard yet from Mr Sowter, is that right?---Yes, yes.

I tender telephone intercept 3049, 23 October, 2017, 1.20pm and accompanying transcript.

20 THE COMMISSIONER: That will be Exhibit 259.

**#EXH-259 – TRANSCRIPT AND AUDIO OF INTERCEPTED TELECOMMUNICATION SESSION 3049, DATED 23 OCTOBER 2017**

MR ROBERTSON: Can we go, please, to volume 16, page 59 of Exhibit 251. Volume 16, page 59, Exhibit 251. So this is an email the same date, 30 2.41pm, and it appears that you've taken Mr Maguire's advice and sent as it were a chase-up email.---Yep, yep.

This is the email that you had in mind before, wasn't it, the one that you said was in the nature of a chase-up email?---Yes.

And then if you have a look at the fourth paragraph where it says, "Jock, as you would know, the Greater Sydney Commission has released their plans, and, as expected, our western area is not addressed as urban land at this stage." Do you see that there?---Ah hmm.

40 So that was one of the issues that was in the mix at this point in time, what Greater Sydney Commission was going to be doing in terms of its more general planning what you and I have discussed as the master planning, is that right?---Yes, that's right.

And so when I have used the concept of zoning in the past, you've quite correctly said it's not just zoning in the ordinary sense of the word. Here the Greater Sydney Commission is involved in much higher-level area of

planning, and that was an area with which you were concerned at this point in time, correct?---Yes. If we had have wanted rezoning, we would have put in a planning proposal, which we didn't do.

But you wanted to ensure that your land was dealt with in the general planning that the Greater Sydney Commission was doing?---Yes.

Rather than doing, as it were, a bottom up approach of seeking a zoning change?---Yeah, yep.

10

You were hoping for a top-down approach that identified your land and the land around it as being for, if not current development, then at least future development?---Big-picture stuff.

Big-picture stuff but big-picture stuff that could ultimately lead to the SmartWest concept coming to fruition, is that right?---Yes. Or, or something happening on our land that was going to be sensible.

20

Not necessarily next month or next six months, possibly in the medium-to-long term, but at least you were keen to ensure that matters of future development, not just leaving it as rural land, but matters of future development, including of the kind that the SmartWest concept had in mind, was accommodated in the broader planning that Greater Sydney Commission was doing, is that right?---Yes, yep.

Now, what happens after that point in time? So you've got some correspondence with Mr Sowter, you send him the chase-up email. What then happens on this issue?---We were given a meeting with Mr John Hardwick, I think it was.

30

THE COMMISSIONER: Who is he?---John Hardwick. That meeting happened I think in January or February in the next year.

Where does Mr Hardwick come from?---He was in the RMS and he was a special, had a special role. I don't think that he reported to the minister directly but he was certainly like a trouble-shooter, I suppose, or problem-solver, I understood.

40

And when you say, "We were given a meeting," what - - -?---Yes, the planner and I because I was doing all of this in conjunction with the planner that we were using.

MR ROBERTSON: Before that meeting in, did you say earlier 2018? ---Yes.

To your knowledge, did Mr Maguire take any further steps by way of advice or assistance in relation to anything of the issues with which you were concerned in relation to the SmartWest site?---Well, I know that I'd seen the

Premier at a talk in mid-November and I thought – because she was talking about the big picture and what Sydney is doing, et cetera, and she was very eloquent and I thought I should write to her and I, I think I probably asked Daryl, “What do you think? Do you think it’s a bit too cheeky to write to the Premier directly?”

10 And so do you have a recollection of a discussion with Mr Maguire where you asked him for advice in relation to your idea of sending a letter to the Premier?---Yes. I just wanted him to (not transcribable) whether it was a bit too much.

Do you recall whether Mr Maguire told you that he was doing anything in the background around about this time, speaking to any other parliamentary liaison officers, perhaps Mr Sowter, perhaps other departments, anything along those lines?---He could easily have. I know he, at certain parts he talked to the local member, Tanya Davies, and other parties. So I think he would have been taking a lot of initiatives, and he could have told me. I just can’t remember.

20 I mean, he was quite active in trying to present your concerns to relevant government officials in relation to the SmartWest site, is that fair?---He, he, he made me think he was active, yes, as in, you know, he was trying to help.

Well, he told you he was doing multiple different things with a view to achieving the kinds of goals that you had in mind, is that right?---Yeah, he, he, yeah, he was telling me that he was doing this and doing that.

30 I’m just going to play you another telephone intercept. This is now the 14 November, 2017.---Okay.

So about the middle of November of 2017.---Ah hmm.

It’s telephone intercept 3691. Can I indicate that there’ll be a reference in this recording to an email address, which will be redacted on the version that’s up on the screen, and it will muted when we get to that part. So when you hear a bit of silence, that will be because we’ve got to that particular part.---Yes, I understand.

40 And can we play the first extract of that telephone call first. So you don’t have to listen to the whole call, I’m going to play you a couple of extracts.

**AUDIO RECORDING PLAYED**

**[12.31pm]**

MR ROBERTSON: And we’ll play the second extract now, please.

**AUDIO RECORDING PLAYED**

**[12.34pm]**

THE COMMISSIONER: This is the longest email address in New South Wales, Mr Robertson.

MR ROBERTSON: There was a significant exchange in terms of getting the spelling, et cetera, correct.

10

**AUDIO RECORDING PLAYED**

**[12.35pm]**

MR ROBERTSON: Do you agree that during the course of that telephone communication Mr Maguire gave you what Mr Maguire described as the private email address of the Premier?---Yes.

And you used that email address to send a letter to the Premier. Is that right?---Yes.

20

Can we just have the second extract transcript on the screen, please, and page 6 of that transcript. As you understood it, why was Mr Maguire concerned that the material would be, "ICAC-able"?---I've got no idea.

Well, why were you concerned, or you say in response, "I do not want any freedom of information or whatever," and then you laugh. Why were you concerned about freedom of information or whatever?---I don't know.

30

Was it because you knew that Mr Maguire was sailing very close to the wind in the advice and assistance that he was giving you in relation to the SmartWest Sydney site?---No. I just didn't want to embarrass him.

40

Why did you think Mr Maguire was being of such assistance and advice in relation to your site in circumstances where he was the Member for Wagga Wagga and Parliamentary Secretary for Corrections, Emergency Services, Veterans and Centenary of Anzac, none of which seem to have anything to do with the Western Sydney Airport?---He was very helpful, he was can do, no nonsense, and I was looking for any port in a storm, I was, you know, he was kindly trying to help and I saw him as member of parliament who was trying to be helpful.

But it must have at least crossed your mind, why is this individual providing such assistance and spending so much of his time, including giving you what he describes as the personal email address of the Premier, in circumstances where it seems to be divorced from any portfolio or other direct constituent responsibilities that he might have?---Well, my view of parliamentarians is they're there to help, and so from my point of view, you

know, he was someone who was prepared to listen and he thought it was sensible what I was saying, so I was grateful for his assistance.

Well, it's a bit more than general help. He's putting you in front of parliamentary liaison officers, he's giving you private email addresses of the Premier in relation to an area of Sydney that doesn't form part of any portfolio responsibilities as a parliamentary secretary or his electorate as the Member for Wagga Wagga.---Well, I spoke with various parliamentarians and other people who it wasn't their electorate, if you like, but they were  
10 interested and he was helpful and that's how I considered him and I thought he was really trying his best to help and maybe he was just, you know, and he said to me a couple of times, "I like helping people."

Did any of the - - -?---And he didn't want to, I mean he didn't want to see things wasted, he wanted to make things happen. He was a bit of a, in my view was he was a hands-on, no-mucking-around-type person.

Did any of the individuals to whom you just referred, other members of parliament and the like, provide the sort of level of advice and assistance  
20 that Mr Maguire did?---Not at that level. He said to me at the time, "Because I'm not a minister I can, I can go out of my way to help you because I don't have the normal controls that a minister would have."

So do you agree that Mr Maguire provided a higher level of advice and assistance in relation to the SmartWest issues than any other politician with whom you had any involvement in relation to the SmartWest site?---Yes.

Do you agree that in or about early of September of 2017, I'm going back in time now, September of 2017 you made clear to Mr Luong that you  
30 expected Mr Luong to look after Mr Maguire financially in the event that the then proposed sale to Country Garden Australia was successfully negotiated?---No, absolutely not.

You deny that on your oath?---Absolutely.

Do you deny that you made it clear to Mr Luong that, one way or another, Mr Maguire should be looked after for the assistance that he was giving in relation to that sale?---Absolutely not.

40 Do you deny that you indicated to Mr Maguire that in the event that any of his advice or assistance in relation to the Country Garden sale or in relation to the other matters with which he was giving you advice or assistance were successful in the sense of being a commercial success, you would ensure that he was given some financial compensation in relation to that matter?  
---Absolutely deny that.

Does that include any financial compensation that may have occurred after he ceased to be a member of parliament?---Absolutely.

You didn't give him any indication, whether it be formal or informal, that in the event that the SmartWest concept was successful or the SmartWest site was sold Mr Maguire might receive some benefit from it be it before or after his time in politics or whether it be by way of financial compensation, appointment to a board of directors or any other matter of some benefit?  
---Not to my recollection. It doesn't, no.

10 Well, not just to your recollection. It's a significant matter if you were to offer to look after Mr Maguire, either directly or through Mr Luong - - -?  
---No, I didn't make any - - -

- - - or give some indication - - -?---No, no, definitely not.

20 So are you saying you just thought that Mr Maguire was providing this level of assistance, the kind of assistance no other member of parliament was providing, what, just because he was generally interested in the concerns that you had and the problems that you were facing. Is that right?---Of course. That's what parliamentarians, they're, they're about serving the people.

30 Parliamentarians that have an electorate of Wagga Wagga which is nowhere near Western Sydney and have portfolio responsibilities as a parliamentary secretary which seemed to have no overlap at all with Sydney West Airport?---Well, yes. I mean he said to me on various occasions I like helping people, and I could relate to that because in my role, my other role, I'm helping people all the time and I often don't just stay to, well, straight consular work or whatever, I'm doing things that would help many different ways and it's just the way one, if one can see one can help one does it.

But it must have at least come across to you as suspicious or perhaps ring some general alarm bells when Mr Maguire starts expressing to you concerns that documentation might be, the easiest term, "ICAC-able"?---Oh, I don't know. I just think that was just silly talk. It didn't mean anything to me.

40 Well, you responded to it and you were concerned not with it being "ICAC-able" but being subject to FOI.---It was just playing, I don't know, it wasn't anything that was concerning me at the time but I didn't want to embarrass Daryl if he didn't want me to because I'd asked for an email address to, to get to the Premier's Office or whatever, and he turned out he'd given me her private one and I thought that was a bit inappropriate probably.

Would you at last agree that you didn't want the correspondence to the Premier to see the light of day in the sense of being publicly released?---No, I wouldn't agree with that.

Well, why were you concerned about it being subject to FOI, which you said on the telephone call?---Well, if it was the case it was not to embarrass her. I was not worried about what we, from my point of view.

You were at last concerned about the fact that Mr Maguire was giving you, as it were, privileged access to the Premier because he was giving you access to her private email rather than sending a letter email through the ordinary channels. Is that right?---I felt a bit, yeah. That's, I just thought that was, I was surprised he gave me her email, her private email.

10

So you at least thought that that was sailing a little bit close to the wind although Mr Maguire was saying to you well, I think this is fine but don't do me in. Is that right?---Yeah. He was saying, wasn't he, at first "I'll go and tell her," and then he was saying "Don't do me in" so I was following what he said.

20

But you were at least a bit concerned about sending the letter directly to the Premier at her so-called personal email address, rather than going through the usual channels of sending a letter to for example her office or to a public official. Is that fair?---I was pleased to get direct access because I'd been going through a lot of process where it had been stopped at the bureaucratic level, so I was very pleased to get direct access. I didn't expect to get her personal email.

You were at least a little bit concerned about the propriety of going directly to the Premier using her personal email address, but Mr Maguire assuaged those concerns and you decided to proceed. Is that fair?---I'm not saying about propriety. I think it's just a bit cheeky.

30

Well, it's a little bit more than just cheeky, isn't it. This is an email address that you've only obtained access to because Mr Maguire, a member of parliament, knows of that particular email address. Correct?---Yes.

This isn't something that you otherwise obtained information by calling up the Premier's Office or anyone else?---No, but I, I think cheeky. I don't think it's impropriety. I don't know who gets that address.

40

THE COMMISSIONER: Ms Waterhouse, when in the course of the two extracts, I think in the first one Mr Maguire said words to the effect that "The Premier would give them a tickle from up top", and in the second he said, "She'll light a fire." Do you recall those two rather colourful expressions that he used?---In general terms he talked like that.

Did you understand that what he meant was that, by writing this letter to the Premier, she would lean on either government ministers or government departments to persuade them to the point of view you were expressing concerning the location of the intersection?---No, I understood it to mean

that she'd give it her attention and have a look at it and then draw it to the attention of the people. I don't - - -

But either override or, as I said a moment ago, dissuade either ministers or government departments from what you were facing at that stage, which seemed to be opposition to your proposal that the intersection be relocated? ---I, I didn't think that the ministers had an opinion. I just thought that they had been so busy with doing everything they were doing, and this was a way of getting attention onto the issue.

10

The point of writing to the Premier was to seek to get her to put pressure on, as I've suggested to you, government ministers or government departments to, at the very least, be more accessible to the submissions you'd been making with no success.---I think "pressure" is too strong a word. I wanted her to draw attention to, her to be aware of what was happening, because she'd actually said to me that, the night before or whatever at this thing, yes, this is all future-proofing and we're planning for the future, we're planning for the next generations. And I felt, as in light of that conversation, that I should tell her, and I didn't want to say it in a public forum because I  
20 thought that was a bit rude. And so therefore I rang Daryl or he rang me, whatever it was, but it was in my mind to write a letter, and he actually suggested it at the same time, and I think I said there, yes, that's what I wanted to ask you. So I was wanting to draw her attention to the fact that this was happening, because I thought she wasn't aware of it, and I thought the ministers also were not aware of it.

And what Mr Maguire said, can I suggest, persuaded you to the view that she would be receptive to receiving the letter from you, addressed to her private email address?---Yes.

30

MR ROBERTSON: You wanted Mr Maguire to assist in the Premier becoming involved in this roads issue, correct?---I wanted her to be aware of it, yes, and to assist.

Well, not just be aware of it. You wanted her to potentially act as the circuit-breaker that you and I discussed a little bit earlier. Is that right? ---That's probably a good description.

To give it "a tickle from the top", to use Mr Maguire's terms, and perhaps  
40 become a circuit-breaker, which I think you've accepted.---Yes.

Now, did you get any advice from Mr Maguire on a draft of the letter to the Premier, do you remember?---I sent him a draft of the letter.

And do you recall whether Mr Maguire gave any comments on that draft? ---I don't think he did, but I can't recall.

Let's just have a look at the draft, page 61 of volume 16.---If he did, it would have been "that's fine" or something, or he may have made some changes. I can't recall.

THE COMMISSIONER: Mr Robertson, I don't think you tendered those last TIs.

10 MR ROBERTSON: I did not. I tender telephone intercept 3691, 14 November, 2017. I tender the two extracts as a single exhibit, including the accompanying transcripts.

THE COMMISSIONER: That will be Exhibit 260.

**#EXH-260 – TRANSCRIPT AND AUDIO OF INTERCEPTED TELECOMMUNICATION SESSION 3691 DATED 14 NOVEMBER 2017 - EXTRACT 1 AND EXTRACT 2**

20 MR ROBERTSON: Page 61, volume 16. So we're still on 14 November, 2017. You say, "Dear Daryl, as I have raised with you, we're very concerned about the lack of futureproofing of The Northern Road. I've drafted the attached letter, which I send to the Premier." "Which I intend to send to the Premier". Do you see that there?---Yes, yes.

Is that consistent with your recollection, that you sent a draft to Mr Maguire - - -?---Yes. Yes, yes.

30 - - - of the letter?---Yes.

If we just turn to the next page so we can see the letter itself. We'll just scan down a little bit further, and I'll just note the underlined words towards the bottom of the screen, "Our site and the area around us needs access to the redirected Northern Road." Do you see that there?---Yes.

And so that fairly identifies at least one of the concerns that you had at that point in time.---Yes.

40 Access for your site to the redirected Northern Road.---And the area arounds us.

And the area around you as well.---Yes, yes. I'm thinking in globo.

That's something that would benefit not just your land, it would benefit the land of those in close vicinity of your land, correct?---Open up that whole western area, which was logical, it was strategically beside the airport, and to me it was daft that you could be closing your mind to the fact that there's a, a whole side of the airport with land that no-one was doing anything to.

This advocacy, you weren't just doing it out of the goodness of your heart, you were doing it for potential financial benefit, but it would benefit not just you, it would potentially benefit surrounding landowners as well. Is that fair?---Yes, exactly. But I, I also was in, in close communication with other landowners around, and so I was taking up the gauntlet on their behalf as well.

10 In fact, I think you were part of a landowners group in the general area, is that right?---That's right.

You provided the group, or you were part of the group that sent various letters, including to the Premier and others, is that right?---Yes. Yes, yes. They were very upset.

I tender the email from Ms Waterhouse to Mr Maguire, 14 November, 2017, pages 61 through to 65, volume 16, public inquiry brief.

20 THE COMMISSIONER: Will be Exhibit 261.

**#EXH-261 – EMAIL WATERHOUSE TO MAGUIRE DATED 14 NOVEMBER 2017**

MR ROBERTSON: Do you recall whether Mr Maguire gave any comment on the draft letter?---He, he probably would have given me some feedback, but I can't recall, I think it would have been, "That's fine," or something  
30 like that, but he might have made a change, I can't remember.

And just so you can see, if we go to volume 16, page 169, I'll show you some text messages between you and him.---Yes. Great.

Item 2, "Louise, good letter, proceed." That's on the same day, about 9.02pm.---Ah hmm.

You see that there?---Yep. Oh, wait a sec, no, I'm sorry, where are we?

40 THE COMMISSIONER: A.M.? A.M. or P.M.?

MR ROBERTSON: P.M. 9.02pm. Item number 2.---So, number 2.

THE COMMISSIONER: Oh, yes. Sorry.

MR ROBERTSON: See there?---And, "Good letter, proceed." Okay, yes.

And then I'll just draw your – in fact, I won't. Number 2, that's on the same date, 14 November, 2017.---Yes. And that's from me to him, is it? No, "incoming," what does that mean?

That's from Mr Maguire to your telephone. So it seems like he's addressing himself to you, and saying it's a good letter, and you should proceed.---Yes. Right, okay. Okay, okay, got it.

10 Now, do you agree that you ultimately sent a letter to the Premier at what was described as the private email address?---Yep. Yes, indeed.

And just so we can see that, volume 16, page 66, if you have a look, 15 November, 2017, 6.51pm.---Yes.

Covering email.---Yes.

And you also attached, I think, an engineer's summary report as well. ---Yes, yes.

20 And you'll see if we scan up the page a little bit, a little bit further.---Yep.

You then forward that onto Mr Maguire, saying for his information, a letter to the Premier.---Yes. Yep.

That's consistent with your recollection as to what happened on the evening of the 15<sup>th</sup>?---Yep. Yep.

30 Commissioner, I tender an email from Ms Waterhouse to Mr Maguire, 15 November, 2017, 6.55pm, pages 66 through to 75, volume 16, public inquiry brief.

THE COMMISSIONER: That'll be Exhibit 262.

**#EXH-262 – EMAIL WATERHOUSE TO MAGUIRE DATED 15 NOVEMBER 2017**

40 THE COMMISSIONER: You didn't tender those SMSs.

MR ROBERTSON: I deliberately haven't. I might deal with that as a separate tender.

THE COMMISSIONER: I see. Very well, yes.

MR ROBERTSON: And then I think you might have sent up a further addendum, or follow-up to, or some further information to the Premier within short order of the letter that we've just seen, does that ring a bell?

---Yes, I spoke with someone else who'd been giving me some advice, and he said to me, "You should be offering to do it just to cost, cover the costs of an engineering report or an engineering" - - -

And so if we can go to page 76 of volume 16, does that appear to be the addendum or the further information that you provided to the Premier, 16 November, 2017?---Yep, yep. Yes, yes. Yes.

10 And if we just scan up the page, that I think you'd forward onto Mr Maguire as well.---Yes, yes.

Just by the way, why have you signed off these emails as Honorary Consul of the Kingdom of Tonga? What did this have to do with the Kingdom of Tonga?---Nothing, but that's the default, and if, if I didn't think about it, I wouldn't change it. It was when I, I mean, when I thought about it and done a letter I put it on the right letterhead, but it's just - - -

20 So it had nothing to do with Tonga, but that was just the standard signature clause that comes up when you send from Louise - - -?---Yeah, and it's just when I've done something a bit quickly or something, or - - -

I tender email from Ms Waterhouse to Mr Maguire, 16 November, 2017, 9.34am, pages 76 through to 85, volume 16, public inquiry brief.

THE COMMISSIONER: That will be Exhibit 263.

**#EXH-263 – EMAIL WATERHOUSE TO MAGUIRE DATED 16 NOVEMBER 2017**

30

MR ROBERTSON: Do you recall whether you received a response to that communication to the Premier?---No, no response.

No response at all?---No.

Whether directly or indirectly?

40 THE COMMISSIONER: Are you talking about the letter or the last email, Mr Robertson?

MR ROBERTSON: I mean either of them.---No, no response.

So both the letter that was sent and the addendum that was sent, there was no response - - -?---That's right.

- - - whether directly from the Premier or indirectly through one of her officials. Is that right?---Yes, nothing.

What about via - - -?---I wondered if the email address was right actually.

What about via Mr Maguire? Was there any indication from Mr Maguire that that letter had been, to use his terms, given a tickle at the top, and that there had been any particular response?---I can't remember, but I certainly had no formal response.

10 So after Mr Maguire assists you by giving you the Premier's, what's described as the private email address, does he later provide you with any other assistance once the letter's been sent, any other assistance vis-à-vis the Premier's office?---Not that I'm aware of.

What about vis-à-vis any other ministers?---Not that I'm aware of.

Well, there was a reference I think you gave us before to having a meeting with a senior person in or about January or February of 2018.---Yes, yes, yes.

20 Just remind us who that was?---John Hardwick.

And how was that meeting organised, did Mr Maguire provide any assistance with that or was that done off your own bat?---No, I was, I was, no, it was, I was, Mr Hardwick's office contacted me or maybe it was – I think it was Mr Hardwick's office, saying that the minister, meaning the Minister for Roads, Melinda Pavey, had asked him to look into the matter.

30 And how did that get drawn to the attention of the minister, do you know? In other words, why was it at the forefront of the minister's mind for the minister to request - - -?---Well, I'd written to the minister several months before and I'd also written obviously to Jock Sowter.

THE COMMISSIONER: Well, you'd had no response when you wrote to the minister.---No response, no.

And then you'd had the meeting with Mr Sowter.---Yes. And I had no response to that either.

40 Well, but then the minister appeared to have somehow communicated with Mr Hardwick.---Exactly, yes, in January, so - - -

After your letter to the Premier.---Oh, no, I, well, yes, it was after the letter, but I assumed it was because, in fact what I was told, it was because the Minister for Roads had asked him to look into it, but I couldn't be sure whether it came from the letter to Jock Sowter or the letter to the minister.

Or the letter to the Premier.---Or the letter – I hadn't thought that through, but perhaps, yeah.

MR ROBERTSON: So is it right that, as you understood it, that meeting arose because the minister got involved, is that right, the minister requested that the meeting be set up?---Yes.

And that was Minister Pavey. Is that right?---Yes, yes.

10 Did Mr Maguire, to your knowledge, have any involvement in causing for that chain of events to happen?---Not to my knowledge, but I probably would have told him about it, I don't know. It's some time down the track. And then I was, I think the, yes, it was probably January or early February, the meeting.

But to your knowledge did Mr Maguire have any involvement in putting that chain of events into operation?---Apart from the fact of putting me in touch with Jock Sowter, no, but that's not that I can recall anyway.

Well, let me try and help you this way. Go to page 86 of volume 16.---Yes.

20 I might just deal with this topic before lunch, if that's convenient, Commissioner.

THE COMMISSIONER: Yes.

MR ROBERTSON: I'm going to show you some more text messages between you and Mr Maguire. The Minister for Roads at this point in time was Minister Pavey. Is that right?---That's right, yeah.

30 And if we just have a look at the very top, you'll see 5 September, 2017. December, 5 December, 2017, from Mr Maguire's - - -?---Oh, okay, mmm.

- - - phone to you. "G'day. I spoke to Melinda Pavey."---Yes.

"She will discuss with Jock and come back to you."---Okay.

"I will send her your contact." Do you see that there?---Yes, I do.

40 Now, does that refresh your memory that Mr Maguire in fact had some involvement in setting up the meeting that you referred to before that Minister Pavey had some involvement in setting up?---Certain, yes, obviously he was involved because of the fact he put me in touch with Jock and he's obviously followed up here, so that's clear, but the meeting was set up by Minister Pavey, not by Maguire.

No, but by the looks of this message at least, Mr Maguire spoke to Minister Pavey with a view to trying to push the roads issue along within the minister's officer or perhaps within the minister's department.---Yes.

Is that right?---Yes.

And do you have any recollection of what happened around December of 2017 in relation to that issue?---I can't remember when the meeting with John Hardwick was proposed, it may have been proposed in December or it may have been proposed in January, I can't remember.

10 Well, do you recall having any discussions with Mr Maguire regarding attempting to get you a meeting with some senior people within Roads and Maritime services?---Oh, could easily be.

Do you have a specific recollection one way or the other or not?---No, but I, I wouldn't be surprised.

20 I mean, do you recall the context of this particular message being sent? Did you ask Mr Maguire to make contact with Minister Pavey or did you speak to him in - - -?---No. Not, not that I – I mean, it would have been implicit in the fact that I was looking to get help wherever I could, so I couldn't say that, but I didn't say to him, "Please contact Melinda Pavey." He was offering to do all these different things.

You may have been in contact with him complaining, as it were, that, "We're still getting dead ends. I'm trying," - - -?---Haven't heard anything back or that sort of thing.

30 "I've spoken to Mr Sowter, I've sent the email to the so-called private email address of the Premier and nothing's been happening."---The interesting about this date, 5 December, it could be when I got the letter from DIRD, which was to say, "We," you know, "We agree it would be a great idea but it's not going ahead."

And so, what, that may have triggered you to making contact with Mr Maguire and saying - - -?---Could be. Could easily be.

- - - "Look, we've hit another dead end, what do we do now?"---Yes. It could be that that's the date of the of 5 December.

40 And so do you recall having any discussions with Mr Maguire about this particular issue, attempting to get a meeting with relevant people within RMS regarding the road?---I wouldn't doubt it but I don't recall.

But you don't have a specific recollection one way or another?---No.

I'll try and help this way. Intercept 4584, 14 December, 2017. So we're now nine days after the SMS.

**AUDIO RECORDING PLAYED**

**[1.02pm]**

MR ROBERTSON: So do you agree that during December of 2017, to your knowledge Mr Maguire is working in the background with a view to, for example, getting you meetings with relevant people within RMS?---Yes.

10 And do you have any recollection, other than the call I have just shown you, of any other communications you had with Mr Maguire around that point in time?---No, not – I mean, there, there could well have been. As I said I probably would have rung him about the letter coming back from DIRD.

But you would agree with me that it at least looks like that Mr Maguire, through Minister Pavey, had arranged for the meeting that you ultimately had in earlier in early 2018, is that right?---It does look that way, yes.

I tender telephone intercept 4584,14 December, 2017, and accompanying extract transcript.

20 THE COMMISSIONER: That will be Exhibit 264.

**#EXH-264 – TRANSCRIPT AND AUDIO OF INTERCEPTED  
TELECOMMUNICATION SESSION 4584 DATED 14 DECEMBER  
2017 - EXTRACT**

MR ROBERTSON: Is that a convenient time, Commissioner?

30 THE COMMISSIONER: Yes. We're going to take a luncheon adjournment now, Ms Waterhouse, for an hour. Please return just before 2.00pm.---Thank you.

I'll adjourn.

**LUNCHEON ADJOURNMENT**

**[1.05pm]**